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and willing to accept higher risk. Obviously, a single portfolio approach can't accommodate both trusts.

■ *Inquire about the firm's experience in managing trusts.* Has the company recently entered into personal trust management? This is true in some banks, where traditional income from corporate, real estate, and foreign lending have declined; an entry into trust management is an attempt to boost fee-based business.

■ *Determine the minimum and maximum account sizes accepted.* Where does your trust fit in? Firms that primarily handle institutional-sized accounts may be prohibitively expensive for personal trusts. Conversely, a small bank trust department handling mostly small portfolios may lack the resources necessary to direct a larger or more complex trust.

■ *Find out how many portfolios each advisor handles.* More than any other financial planning instrument, a trust requires a bond of mutual understanding between you and the trustee, who must gain an appreciation for your values. Later, a similar relationship should develop between the trustee and the beneficiaries of your trust. If a firm overburdens its managers, they won't have time to develop this bond.

■ *Analyze the firm's investment philosophy and style.* The investment advisor has a unique style that you must be

comfortable with. For officers of an investment advisory firm or trust department to be effective as trustees, they should concentrate on a manageable number of securities at any given time. However,

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strategies should not be too narrow. For example, market-timing techniques are inappropriate as a long-term strategy for some trusts.

■ *Is the professional staff stable?* Your trust may have to span several generations. Will officers—some of whom you or your beneficiaries will never meet—be sensitive to your goals and values? You might want to incorporate a provision in the trust allowing your beneficiaries to replace a trustee under certain circumstances. Such a provision can prove deleterious to the tax status of the trust, however, and should be considered carefully.

This emphasizes the importance of initial trustee selection. You may want to name both an original trustee as well as successor trustees.

■ *How will your trustee be compensated?* Most financial planners—and all stockbrokers—earn commissions on the investment products they sell to

clients. While nothing is wrong with this practice as long as you're aware of it, there's potential for conflicts of interest: the more investment transactions in the trust, the more money the planner or broker makes. Investment advisors, family offices, and bank trust departments charge an annual percentage of the assets they manage and therefore profit from the growth of the portfolio assets. Your peace of mind will depend on making a judicious choice.

#### **The ideal trustee—where are you?**

The ideal trustee combines a close relationship and personal knowledge of your true intent; sophistication and sensitivity to the legal issues surrounding the trust; the planning skills of an accountant to foresee tax ramifications; and the financial acumen of an investment advisor to ensure asset growth and income. Your trustee should also be a sympathetic, ethical individual.

Too much to ask for? Maybe not. You may have to assemble your own team of experts, or you may find the answer in a bank or an advisory firm. In any case, look for professional assistance that addresses your individual objectives. The wealth you've worked so hard to accumulate and the future well-being of your family calls for thoughtful selection of a trustee. □

# FINANCIAL EXECUTIVE

## *Who's the perfect trustee?*

**Already have someone in mind to oversee your trust? Your choice may not take into account some important differences in your options.**

—*Jack Reynolds*  
*North American Management Corporation*

When a financially successful person establishes a trust, he or she must make many vital decisions, among which is the selection of a trustee. But, as a financial executive, you're more likely to be concerned with investment issues than trustee selection, assuming the latter something of a formality. Your typical choices are the attorney who drafts the trust document, your regular banker, or the family's eldest child. But problems can ensue if you make the choice without fully considering your options.

Don't assume the trustee's powers are limited to ensuring the trust provisions are followed. On the contrary, the trust instrument usually leaves considerable discretion to the trustee, and that person's interpretations, administrative approach, and investment philosophy may differ greatly from your intentions as grantor.

When you set up a trust, you create a legal entity. It will contain your assets but be managed by a trustee, who will act at his or her own discretion as well as on the stipulations of the trust instrument. This discretion comes into play with distributions (including discretionary payments of prin-

cipal to future beneficiaries) as well as—and sometimes more significantly—trust investments.

Time may greatly influence your choice of trustee. Let's assume your trust is set up to span at least two generations. From your professional experience, you know how difficult it is to anticipate investment trends over a decade, much less several generations, so you don't want to constrain investment selection in the trust instrument. This means your wishes, as outlined in the instrument, should act as a broad guideline, leaving sufficient latitude for a trustee to make decisions on the purchase or sale of specific holdings in a way compatible with your own orientation.

Most executives recognize it's inappropriate to try to use one's trust to manage assets from the grave. Still, it's disconcerting for someone who has spent a lifetime building wealth for his or her family to face the reality of an "outsider" making decisions about the family's future, unless the executive is completely comfortable with that person's style and philosophy. The trustee may be appropriately empowered, for example, to retain or dispose of the grantor's con-

trolling interest in a closely held enterprise, affecting not only the family's financial affairs, but it's very economic lifeblood. For the CFO, accustomed to charting the course of his family's future, a lack of certainty about the trustee's predilections can be unsettling.

You might believe that the trustee doesn't need a financial background since investment decisions can be delegated to a money manager, but all trustees have fiduciary responsibilities and must participate in setting investment strategy. It's important to consider a trustee as a financial partner, not merely an administrative caretaker.

#### **Who fills the bill?**

So what are your trustee options? And what are the strengths and weaknesses of each?

*Corporate trustees*—The chief benefit of choosing a corporate trustee, whether it be a bank or trust company, is that you have confidence the institution will provide a continuity of service to your heirs. But, as the nature of banking has changed from the stable, conservative approach traditionally ascribed to these institutions to a more volatile environment, with some of the largest, most established

banks merging and undergoing dramatic change, you may be misplacing your confidence. Choosing your local banker as trustee may produce an unpleasant surprise if the bank, for instance, is bought by a larger bank outside your community—one that places a low priority on local trust accounts. Plus, you have no guarantee your friendly, local banker will always be there.

As you consider a corporate trustee, keep in mind an *individual* is still the one making the decisions. While the firm is named as trustee, one officer generally handles the administrative needs of your trust. This is the person you—and your heirs—will have to deal with. Also, while one person at a time may be assigned to your account, the turnover rate may be greater than you anticipated, and your heirs may find themselves dealing with a succession of trust officers. It's common for banks to use a system of two officers for each account: one handling investment matters and another for administrative issues. This may prove inconvenient for your beneficiaries.

Bank trust departments have acquired a mixed reputation for employing inexperienced managers. Look into the credentials of the trust officer, particularly if you're not a regular customer of the bank and well acquainted with its staff. If you've developed a close relationship with specific officers at your bank, choosing the bank as the trustee for your assets may make a good deal of sense.

Also, corporate trustees are apt to stick closely to the letter of the trust. When the situation calls for flexibility, this may be a problem. Take the example of a trust where the donor states a "high risk tolerance"

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for the assets held in trust for his wife, but subsequently suggests an asset allocation of 25 percent in cash, 25 percent in bonds, and 50 percent in equities. Clearly, this is not a bold allocation by most standards. In such a case, the trustee has to be familiar enough with the donor to understand the basis for this disparity and take appropriate action.

Trust departments favor common pooled funds and seldom use individually managed portfolios except for their largest accounts. Their conservative approach may or may not be consistent with trust goals. If assets are managed too conservatively, focusing on income generation, the trustee may fail to hedge against inflation, and the intent of passing substantial assets (in real terms) to your children may never be realized. A bank also may be limited with regard to the specific investments it holds.

**Attorneys and accountants**—You probably have established relationships with attorneys and CPAs who have a solid understanding of trust language and potential tax ramifications. They can serve as a rich source of information and should certainly be instrumental in the early stages of defining the goals of your trust and the tax implications of the various funding options. They may also help draft the trust instrument. Once these tasks have been accomplished and the trust is in place, your primary concern becomes the preservation of wealth within the established guidelines.

You should explore your attorney or CPA's level of investment sophistication. This may require some finesse on your part, depending on the closeness of your relationship, but the role of investment management is too important to chance to good feelings. You must be certain your assets will be managed properly. If your CPA or attorney doesn't have the training or expertise to act as a fiduciary, ask him or her to subcontract the portfolio management to a professional investment advisor. However, achieving the principal goals of the trust—whether income generation or wealth accumulation—remains the responsibility of the trustee.

Fees may also be a consideration. An investment advisor typically charges 1 percent of assets (a smaller percentage for larger trusts and a higher percentage for smaller ones) to

manage a trust as well as to serve as trustee. Most CPAs and attorneys charge hourly for their professional services. The lack of a relationship between trust assets and fees may be a burden, especially for a smaller trust with demanding interested parties or complicated issues that run up hourly fees.

**The family office**—Investment advisory firms serving as family offices have investment proficiency and experience serving as trustees for a relatively small number of clients. However, not all investment advisors make suitable trustees. For example, specialized portfolio managers may have a narrow focus that's inconsistent with your long-term objectives.

Portfolio managers who concentrate in one area—on, for example, short selling, value investing, growth stocks, or convertible bonds—may be too focused on "style investing" to provide a safe and diversified investment strategy for your trust.

Some executives of self-made, though considerable, means may be intimidated by what they think of as the blue-blood atmosphere of a family office. But many such firms serve a broad cross section of families and individuals of significant means.

Consider, too, the continuity of service that family offices offer. While the stability of principals is usually greater here than at banks, turnover among lower-level management is bound to occur. You should satisfy

yourself that the administration and investment management of your trust will parallel your original intentions.

Also, because many family offices offer such services as tax and estate planning, bill

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paying, and nonpublic investment analysis, be sure you're not paying for irrelevant services. Ask if you can be billed for such services separately if you need them.

**A family member or friend**—A solution may be to appoint a younger family member, one who demonstrates the characteristics you deem most important, then leave it to that person to find a suitable investment manager for your assets. Sometimes, this can place a strain on family relations, so it's a good idea to appoint a co-trustee, someone a bit distanced from the inner circle of family politics and with substantive trustee and investment experience.

The use of co-trustees is prudent in any case to bar potential autocratic administration of your trust and to lend balance. For example, a family member trustee can provide a closer view of family aims, while an investment officer, serving as co-trustee,

can guide the trust investments toward those goals. In no event may a co-trustee who is also a beneficiary be permitted to make decisions regarding discretionary distributions from the trust.

A family member probably has the best insight about your intentions, but may lack the financial sophistication to manage trust assets. The complexities of trust management can overwhelm a novice, and a conflict of interest can arise when the trustee is also a beneficiary.

#### **Evaluating investment firms**

As you research prospective trustee candidates, you should consider several qualities that may make one candidate better than another for your circumstances:

- *Explore the history of each firm and background of the key officers.* This is essential for the individual designated to manage the trust. Since there is no licensing body for trustees, you need to closely evaluate the firm's service history. This information is sometimes more important than past performance charts because overall performance figures aren't always relevant to individual portfolio objectives.

For example, a trust portfolio that has shown little growth over a 10-year period may not be impressive at first glance. But if the goal of that trust is to provide beneficiaries with a stable income and maintain their lifestyle with a low-risk investment philosophy, it has accomplished exactly what the grantor wished. Another trust may have younger beneficiaries seeking investment growth