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# Navigating Trust

➤ **A Guide for Advisors**



A SUPPLEMENT TO

**Financial  
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Trust Services Can Help Advisors Grow Assets, But

# Choose a Trust Partner Wisely



The statistics on not retaining clients during spousal or generational transfer are staggering: depending on the study, advisors lose between 80% and 90% of their business when a client dies.

Offering trust services allows advisors to significantly increase the odds that they will retain assets when a client passes, states William Russell, President and CEO of independent trust company TCA TrustCorp America. For those advisors who counter that the majority of their clients either don't have or don't need trusts, Russell has this warning: "If you don't know about your clients' trust and estate plans, then you are not their go-to advisor. Someone else is."



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**William Russell, President and CEO,  
TCA TrustCorp America**

## Role of Trust in the Advisor/Client Relationship

Catherine O'Malley Kearney, Director of Wealth Administration for Key Private Bank (\$24.5 billion AUM), contends that, on average, the lifecycle of the trustee relationship is twice as long as the average investment relationship. "Advisors who offer trust tend to have more intimate relationships with their clients which causes clients not to shop for another advisor," explains O'Malley Kearney.



**"Our objective is to serve the family-chosen trusted independent financial advisor."**

**Janet Bandera, Senior Vice President,  
National Advisors Trust**

Trusts can serve as a defensive strategy against losing assets as well as an offensive strategy to grow assets under management, explains Russell. "If you can find clients who already have trusts, there's a good chance they will be interested in discussing a transition to a corporate trustee/advisor combination," he says.

Trusts can be established with as little as \$250,000 in assets, Russell notes, citing special needs and education trusts as vehicles useful for clients with a wide range of wealth profiles.

"Offering trust services can enable advisors to retain clients during key transitional times in their lives," notes Elizabeth Roberts, head of Fiduciary Services at \$6.7 billion asset Bryn Mawr Trust. Janet Bandera, Senior Vice President of independent trust company National Advisors Trust, agrees, "Advisors want to be able to help their clients when their families need a trusted advisor the most—when the client becomes incapacitated or dies. If you offer trust services and get to know the family before the client dies, you have a better opportunity to retain the relationship."



**“Having a trust company in place for larger, more complex estates makes more sense than listing a family member.”**

**Greg Steven, Senior Financial Counselor, Cabot Money Management**

Greg Stevens, Senior Financial Counselor with Cabot Money Management (\$500 million AUM), concurs that trust services allow his firm to build relationships not only with the grantor but also with the beneficiaries while the grantor is still alive.

### **Evolving Trust Laws**

Trusts were traditionally established for tax planning or to protect assets from creditors or other claims, but updates in tax transfer rights have changed the trust landscape, explains David Sawyer, Managing Director of BMO Harris Bank’s Estate and Trust Services. As of January 2013, only individuals with trusts worth \$5.25 million (\$10.5 million for married couples) are subject to transfer taxes, making trusts largely unnecessary as tax planning vehicles for everyone but ultra high net worth clients.

However, Sawyer is not portending the demise of trusts but does predict that trusts will be used more creatively, for example, as an income tax planning tool.

Another change to trust laws is the adoption of the Uniform Trust Code (UTC) by about half of U.S. states. The UTC bifurcates the duties of trust management from the duties of the investment manager and establishes clear and well-defined roles, responsibilities and liabilities between the advisor and the trustee.



**“Offering trust can enable advisors to retain clients during key transitional times in their lives.”**

**Elizabeth Roberts, Head of Fiduciary Services, Bryn Mawr Trust**

But even with the adoption of the UTC, trustees must still navigate state variations, particularly since a trust can reach into several states. Roberts explains that in many states, income and principle must be reported separately, something a trust company is well versed in supporting. O’Malley Kearney cites regulatory changes in the rules for notifying beneficiaries with a contingent interest in the trust as an example of a compliance burden that a trust company can handle.

Trust laws continue to evolve but the industry has entered a period of relative stability, notes Sawyer. “Now is the time for advisors to move forward with trust planning for their clients,” he says.

### **How a Trust Partnership Works**

Historically trusts were the sole province of large banks. But, as Roberts describes, clients and beneficiaries are more sophisticated and may prefer a cafeteria approach in which a trusted independent financial advisor manages trust investments and a corporate trustee manages trust administration.

In this scenario, the advisor retains their fiduciary responsibility for investment management and the trust company or bank serves as fiduciary for the trust administrative responsibilities.

It makes sense for advisors with a long-standing client relationship to manage trust investments, says David Choi, Partner with Kurzman Eisenberg Corbin & Lever, LLP. Whereas a traditional corporate trustee may apply a one-size-fits-all approach to investments, an independent financial advisor can evaluate the correct investment strategy for the trust.



**“Maintaining the relationship through the generations is the name of the game.”**

**David Choi, Partner, Kurzman Eisenberg Corbin & Lever, LLP**

Bifurcation is especially important for the ultra high net worth client, adds Sawyer. For example, a trust company may view a concentration in a client’s trust portfolio as problematic and seek to diversify, but the concentration may serve the intent of the trust. The separation of administration from investing allows the advisor to follow through on client and beneficiary wishes, he says.

Although a smaller independent advisory firm, Cabot Money Management is able to offer trust services by partnering with a corporate trustee, in this case, the firm’s custodian Schwab. Describes Stevens, “We retain the client contact and manage the trust’s investment portfolio but the custodian behind the scenes handles the trust administration.”

Since a trust company is an independent entity, advisors steer clear of complex regulations such as the SEC rules governing pending custody of client assets. The independent trust company and not the advisor is responsible for compliance, explains Bandera.

Russell explains the role of TCA: “We lay down the highway and the advisor drives the car.” Bandera notes that although National Advisors Trust does have investment powers, they do not exercise them. “Our objective is to serve the family-chosen trusted independent financial advisor,” she says.

Forming their own trust company may be a valid option for certain advisory firms, says O'Malley Kearney, but warns that advisors should be prepared to make a large capital investment and allocate a year to acquire either a national or state trust charter.

## Trustee Due Diligence

An advisor seeking to work with a trust company needs to perform due diligence. Select a trust company that offers education to advisors, suggests Bandera, adding, "Education is key to making the trustee/advisor relationship work."

Sawyer agrees that advisor education on how trusts work is essential so advisors can ensure a trust does not compromise client goals. "Advisors can implement trust vehicles into the estate planning architecture so that the trust is not a limitation and the partnership is productive for the advisor, the client, and the trustee," says Sawyer.

Bandera also recommends partnering with a trust company that will hold assets such as real estate, limited partnership or tangible assets such as gold. "We don't dictate the type of assets held in the trust; we believe that the family chose the advisor to manage that account within their investment philosophy," she says.

O'Malley Kearney recommends that advisors choose a trust company with a robust offering that includes a well-established trust tax department, the ability to manage real estate, and specialty services to handle the nuances of vehicles such as irrevocable life insurance trusts. "Once you bring in a trustee, you don't want to have to bring in other professionals to manage different aspects of the relationship," she explains.



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Catherine O'Malley Kearney, Director of Wealth Administration, Key Private Bank

Advisors interested in offering trust services should foster a partnership attitude that recognizes that the trust company has a role in the client relationship and is willing to openly communicate with their trust partner to best service clients and beneficiaries, says O'Malley Kearney.

But due diligence goes both ways. Roberts notes that Byrn Mawr Trust also verifies that the advisor is in good standing before agreeing to a partnership.

## Bottom Line

An advisor who can offer clients a holistic view of their financial life and help them with each component—including trust solutions—is able to attract and retain clients who recognize the value of the independent advisor model, says Bandera.

But picking the right trust partner is critical. "With the wrong partner, you may raise the hackles of the beneficiaries and lose the relationship," believes Choi. "Maintaining the relationship through the generations is the name of the game." ■

## Family Dynamics

Naming a family member as successor trustee is rarely a good idea, contends William Russell, President of TCA TrustCorp America. "Family members tend to treat themselves either too fairly or too unfairly. It creates ill will within the family"

Naming an attorney as successor trustee is also not ideal since an attorney can die, become incapacitated, or even "turn bad," explains Russell.

Greg Stevens, Senior Financial Counselor with Cabot Money Management, agrees that for more than a simple trust with multiple siblings, it's best to name a corporate trustee. "Having a trust company in place for larger, more complex estates makes more sense than listing a family member."