publication of the old mission investment & trust companies
summer, 2016

trust administration
wealth management
investment services
retirement plan advisory

Celebrating *10* Years

And now, the rest of the story.

I can still remember seeing Bob Stibbs in my office saying, 'We should probably pick a date.' So, we picked Memorial Day weekend in 2006, to split ties with our former firm. At that point, it was real.

Shortly after our firm's merger with Wachovia Securities in 2004, we no longer felt 'at home' with the services structure of the new company. It wasn't anyone's fault really, but serving clients in our smaller market as part of a larger firm no longer felt personal. As an advisor, you never want to feel at odds with your client over policies and procedures that you could not control, and it was our time to leave.

We talked openly as a group. Do we stay and make the best of it? Or do we go, and design something from scratch that fits the needs of our clients specifically? For those who don't know, there are plenty of options for advisors to consider - another big firm, quasi-independent channels, or the fully independent route. We chose to pursue the fully independent option and interviewed firms like Schwab and Fidelity to determine which would be the best fit for our clients.

In January we decided on a name. In March we signed our lease directly one level above our employer in the same building. As painters came and went, the carpet was installed, and furniture was delivered. We scoured the landscape for an office that was well clear of our former firm, but had no luck in the search other than the 10 offices above our existing location. I couldn't believe that we would ultimately be moving, but '*staying.*' However, as we would learn, clients already knew where we were previously, so it wasn't all that bad to stay in the same building. We couldn't say much, let alone anything to anyone. We spent evening hours for months on end getting our ducks in a row, formulating client packages, materials and developing our plan for transitioning our clients from one firm to the next. Owning and operating a private company was a labor of love, and we enjoyed (almost) every minute of the experience.

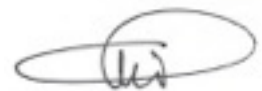
We resigned at noon on a Friday - something that seems to be an industry standard - and took the keys to our new firm 15 minutes later. Client packages were sent, and the phones began to ring. Almost immediately we contacted our clients to let them know that we had resigned and re-established our roots at the new firm.

I still remember getting a book from my former Prudential Securities branch manager - Larry Olivier - who gave me the opportunity to serve as an advisor on my own in 1994. 'Oh the Places You'll Go' was the title by Dr. Seuss. So true today, as it was back then. Following our resignation, our former clients were warned by Wachovia against joining a small firm and our ability to survive when things got tough. Things indeed, did get tough, but we emerged stronger on the other side. Wachovia, on the other hand, was forced into a merger with Wells Fargo due to the crisis in 2008, and no longer exists today as the firm it once was.

Wachovia tried unsuccessfully to initiate legal actions - twice, actually - against our group. Their stunning losses cleared our path to continue down the route of existing as one of the largest independent wealth management firms in northern Michigan. It also reinforced our commitment to doing business our way based on the direction and needs from our client base. While we may 'own' the firm, the company was borne out of the needs of our clients. When we needed a trust services solution, we created one - Old Mission Trust Company - rather than farming out services to a nameless, faceless provider. Rather than operating our group as separate 'silos' we have combined our talents and efforts into one organization, serving clients together as one advisory group. It's operationally more efficient, and without much doubt creates an advisory atmosphere that improves service and the advice that is provided to each and every client regardless of their circumstance. This differs greatly among large firms, with most advisors within those office environments unwilling to share best practices or ideas with colleagues.

We carry this mindset through most everything at our firm. We've added staff and services where and when necessary. In talking with other advisors, both here and in other markets, they are surprised and incredibly complimentary of what we have formed. While it's different and broad-reaching, it is also based on the absolute needs of our client base.

This issue is a little different in efforts to highlight the members of our group, our passions and interests. It's been a great ten years. May we have another?



Christopher M. Lamb, CIMA, CTFA
Managing Partner and Principal

Cover: The trusted 'cleat hitch' used commonly by boaters to ensure that a vessel is safely and securely tied to a dock. **Opposite:** Northern Michigan wedding.

BAA-BAA BLACK SHEEP

"When I was 17 I knew what I wanted to do for a living. As it turned out, investment management, money, and markets were a huge passion that carried me through college and into a great profession."

Profile:
Christopher M. Lamb, CIMA, CTFA
Managing Partner, Principal and Co-Founder

Christopher serves as the Managing Partner of Old Mission Investment Company and Old Mission Trust. With a background in investment analytics, he serves as the Chairperson for the investment committees of both Old Mission Investment Company and Old Mission Trust. For purposes of specialization, he focuses on trust and estate matters for clients of Old Mission and provides planning services to those clients looking for advice concerning philanthropy, trust management and estate planning structure. Christopher is a Certified Trust and Financial Advisor as well as a Certified Investment Management Analyst and integrates prudent estate and financial planning into the wealth management relationships served by Old Mission.

Life Interests

Sailing, Mountain Biking (summer and winter), Skate Skiing, Photography, Model railroading.

Family

Married to his wife Autumn for 18 years.

Background and Experience

Financial Advisor - 24 years
Albion College, Economics and Management
Certified Trust and Financial Advisor (CTFA)
Certified Investment Management Analyst (CIMA)

SHOO-LER

"I get up at 4:30 every morning, even on weekends, make a pot of coffee and turn on my computer for work. My wife thinks it's because I can't sleep. She is partially right, I can't sleep because I am so excited to start my day."

Profile:

Kurt A. Schuler
Chief Information Officer, Principal and Co-Founder

Kurt is a co-founding member of Old Mission Investment Company and Old Mission Trust. Kurt provides trading support, performance reporting, and client service functions within our firm. Kurt participates in the Trust and Investment Committee for Old Mission Trust Company, serves on the Board of Directors for both firms, and is involved in the security selection process for the managed portfolios for both companies. He also provides guidance on other services for our firm that include both financial planning and financial modeling for our individual clients.

Life Interests

Cooking, Traveling, Boating.

Family

Married to his wife Diane since 2010. Has two children, Liam and Isabel, as well as two step-children, Victoria and Katherine.

Background and Experience

Financial Advisor - 25 years
Denison University, with a degree in Economics and Environmental Studies.

MR. KEITH

"Specializing in 401(k) advisory work allows me to enjoy the best of both worlds. I get to be constantly challenged when helping companies navigate the highly technical rules and complex financial arrangements necessary to provide a quality retirement benefit plan for their employees. Then, I get the simple pleasure of educating and advising employees on how to get the most out of it. Whether they are a first time saver or someone who is ready to retire, it always brings me the most gratification."

Profile:

Keith P. Olshove, AIF
Senior Vice President - Retirement Plan Investment Consulting Group

Keith provides advice and counsel to businesses and business owners concerning their employer-based retirement plans. With a specific talent for working with employer-sponsored plans such as 401K's, Keith provides employee educational programs, as well as working directly with employers to provide the best plan possible for their employees. Employers are faced with numerous challenges when it comes to the rules and regulations concerning retirement plans, and Keith makes every effort to help them understand the complexities involved. Keith also serves on the investment committee for both Old Mission Investment Company as well as Old Mission Trust in order to select individual investments and portfolio allocations, and assists in the management of individual client and retirement plan portfolios.

Life Interests

Water sports, Basketball, Golf, Cooking, Landscaping and DIY projects

Family

Married to his wife Sonya for 19 years, with 3 children

Background and Experience

Retirement Plan Advisor - 27 years
Western Michigan University, BBA in Finance
Cannon Institutional Trust School
Accredited Investment Fiduciary (AIF)

STIBBS *1.0*

"I've counseled investors and clients for almost 30 years, and it's been great seeing the advice I've given successfully fund retirements and educations. Maintaining a long-term outlook does work, but it's tough to keep that in mind when your emotions try to tell you otherwise."

Profile:

Robert W. Stibbs, CPA, CFP
Chief Financial Officer, Principal and Co-Founder

Bob is a co-founding member of Old Mission Investment Company and Old Mission Trust Company. Bob serves on the investment committee of Old Mission Investment Company as well as the Trust Committee for Old Mission Trust Company. Bob is a Certified Financial Planner, and a Certified Public Accountant, and provides planning guidance and assistance for clients of our firm. Bob has a substantial background in tax and auditing, and serves on the committees that are responsible for the management of our individual client portfolios for both the investment company and trust company as well. Bob works to monitor the allocations of client portfolios, and is a member of the team that oversees the individual securities selected for our model portfolios.

Life Interests

Golf, Traveling, Reading and Family.

Family

Daughter Carey, Son Ryan, grandchildren Trudy and Charlotte, and long-time girlfriend, Julie.

Background and Experience

Financial Advisor - 29 years
Western Michigan University, Accounting Degree
Certified Financial Planner (CFP)
Certified Public Accountant (CPA)

STIBBS 2.0

"As a little girl I remember being ecstatic when my dad would take me to the office and put me to work filing all his paperwork. I always hoped that a finance career was in my future, but it was only a dream that one day I would be working and learning side by side with the best man I know."

Profile:

Carey A. Stibbs
Client Services Specialist and Investment Advisor

Carey joined Old Mission Investment and Trust in 2014 as a client services specialist. In 2015, she passed her securities examinations and is beginning to work as an investment advisor for the firm. She has worked closely with our clients in order to provide quality client service when needed, as well as assisting in the financial planning and trust administrative processes. Additionally, she maintains our performance reporting and analytical software and also contributes to the investment management committee meetings for Old Mission Investment Company, as well as the Trust and Investment Committee for Old Mission Trust Company. She has chosen trust and estates as her field of focus for Old Mission and our clients.

Life Interests

Golf, Tennis, Volleyball, Traveling, Reading, Cooking, and Family.

Family

Daughter of Robert Stibbs and engaged to Issac Tafelsky.

Background and Experience

Aquinas College, Degree in International Business and Economics.
Bank of Northern Michigan
Bank of Holland
Mercantile Bank

J.J.

"Wealth management is a relationship business and 'trust' is the key to our success. Every day I have the pleasure of meeting new people, solving complex estate issues and forging longstanding relationships built on the foundation of 'trust.' It's those simple pleasures that get me out of bed in the morning and make me smile from ear to ear, knowing that we helped yet another client navigate the complex world of wealth management."

Profile:

Jeffrey A. Johnson
Chief Compliance Officer, Principal and Co-Founder

Jeffrey is a co-founding member of both Old Mission Investment Company and Old Mission Trust Company. He serves as our firm's Chief Compliance Officer and ensures that our regulatory requirements under both FINRA and the SEC are met and administered properly. Jeff provides financial planning guidance, and administers employer sponsored plans for Old Mission. Additionally, Jeff serves on the Trust and Investment Committee and the Board of Directors for Old Mission Trust Company. Jeff participates in the ongoing review of client accounts, client service, and provides guidance and counsel to corporate clients looking for cash management needs.

Life Interests

Golf, wake surfing, yoga, and licensed private pilot for 34 years.

Family

Father to Delaney and Aden

Background and Experience

Financial Advisor for 16 years
Northwood University, Bachelors Degree in Finance.

JO.

"I've been a part of the financial services business for the past 35 years. It's been a great love for me. I started my career at a small firm in Toledo, Ohio when I was 26, and have enjoyed coming back to a small private firm once again. It's been a great experience."

Profile:

Jo Ann B. Hudson
Client Services Specialist

Jo Ann joined Old Mission on the day the company was created. Since 2006, she has provided our company and our clients with impeccable service, both internally and externally, and has made our group run efficiently. She is responsible for the day-to-day operations for our firm, and specializes in handling client-related functions such as distributions, receipts, account transfers, and document maintenance. She answers questions concerning any issues you may have, makes sure that the front office matches the back office, and handles pressure with grace. She is organized, has a team attitude, and has forged client relationships that have truly benefitted from her attention to detail.

Life Interests

Kayaking, hiking, fishing, long bike rides, sewing and craft work

Family

Married to David for 43 years, with two sons, David and Ryan

Background and Experience

Northwestern Michigan College and the University of Toledo. Client Services Specialist with Prudential Securities (Bache and Company), and Smith Barney, and holds her Series 7 and 63 securities licenses.

MS. TINA

"At a young age, I knew I wanted to work with people, to help them grow, give them a reason to smile and help them feel accomplished."

Profile:
Tina M. Livermore
Client Service Specialist

Tina manages our Alpena, Michigan branch office, and serves our clients in a client service role. She is responsible for opening new accounts, initiating transfers, processing withdrawals and handles deposits for our firm. At the end of 2016, she will be preparing for her securities license exams. Tina is a valuable part to our firm, and has developed many relationships with our clients on the northeast side of Michigan. As with any company relationship, we are only as strong as our ability to service and manage relationships, and Tina has been a welcomed addition to our firm.

Life Interests

Spending time with family, camping, Detroit Tigers, and singing.

Family

Married to husband Ray for 17 years, son Ernie, step-son Adam, step-daughter Amy.

Background and Experience

Worked at NBD (National Bank of Detroit), and Bank One and through a corporate merger, Citizens bank in Alpena. Worked with Bank of Alpena, and through a company merger, First Federal of Northern Michigan as an assistant branch manager.

BENEFICIARY DESIGNATIONS

They are the ultimate determinant of where your assets will go when you pass, and take a variety of different forms. From insurance policies to IRA and bank accounts, are your beneficiary designations consistent with your estate planning documents and your intentions?

When you are gone, beneficiary designations are virtually written in stone. Are yours up to date and accurate given your wishes and other estate planning documents? Beneficiary forms name the 'next in line' concerning the inheritance of your assets. For those accounts that are not held in the name of your trust, beneficiary forms appoint the names of those who will inherit a specific account when you have passed.

Consistency counts. Investors have spent thousands of dollars concerning the proper drafting of their estate planning documents. It's important to make sure that your beneficiary designations are consistent with your intentions, and that the designations on your various accounts mirror your estate planning document. How do you ensure that this is handled properly?

IRA Accounts. Spouses are generally the first beneficiary appointed, with children as contingent beneficiaries. For most families this type of beneficiary appointment mirrors the intentions within the state planning documents rather well and can be administered with ease and efficiency.

In other situations where there may not be a surviving spouse and there are only children, a trust may be appointed as the beneficiary to the extent that the trust itself has language sufficient to administer retirement plan assets.

Annuities. Annuity contracts are tricky investment vehicles, and are among one of the most tax un-friendly investments to leave to your children. They also have their own beneficiary structure, and unless you appoint a living beneficiary (as opposed to your trust), there can be significant tax implications. Sadly, each annuity contract is different with little in terms of standardization concerning how beneficiaries will receive payments under an annuity. Trusts can make this type of beneficiary appointment even more sensitive, and almost always require a 'deeper dive' into the provisions within the annuity contract before a proper beneficiary is decided upon.

Bank Accounts. Be very careful in how you appoint joint tenants to your bank accounts. Most people believe that the intentions drafted under their trust will govern the way *all* their assets are governed. This is not true. When you appoint a joint tenant to a bank account, they will be the ultimate owner of the account upon your passing. Regardless of what your trust or will may say, a joint owner on a bank account will assume full ownership upon the passing of the primary owner. Many times parents may place a child or a friend on their bank accounts 'just in case.' This is potentially problematic, since this type of designation routinely trumps any direction given by the trust document or will.

What's the solution rather than adding a joint tenant to bank account? If you are married, we strongly suggest the use of 'Transfer on Death' or TOD designations. TOD designations will safely pass a joint account to your trust without probate court, assuming both tenants on the account have passed. For single individuals, widows or widowers, who have drafted a trust document, we routinely advise that bank accounts should be listed in the name of the trust.

Final Comments. The title on the account will ultimately drive how it is handled upon your passing. Joint tenants that survive an original owner will be the rightful owner of the account, regardless of how your trust appoints a beneficiary. Annuities and retirement accounts do require a little more care concerning proper beneficiary structures. However, above all, you want to make sure that your funds ultimately pass to the individuals you intend the best way possible. It's always worth a short discussion and review with your advisor just to make sure everything is both titled properly and carries the appropriate beneficiaries. There is little that can be done after you have passed, and improper beneficiary structures can create tension among families, not to mention tax strife when completely unnecessary. It's worth the look. OM

Photos: There are evidently many ways to tie a boat to the dock, some more creative than others. A common phrase among sailors is 'if you don't know a knot, tie a lot.' Which one is correct?

BR-*EXIT*

What is it? What are the global implications, and why was it so important for Great Britain to remove themselves from the European Union? With the UK serving as one of our largest trading partners, are there any repercussions that we should be aware of?

The potential exit of Great Britain from the European Union (EU) has been a hot topic. With a majority vote of the UK citizens, with approximately 52% of voters in favor of an exit, what does this mean for the global economy? Is it a significant event? Or, are we once again dealing with political pandering that has the world crying 'wolf?'

For those who don't know how the EU is structured or how it began, we'll shed a little light on this hot topic. The EU is largely a geo-political union of 28 member states that are located primarily within Europe impacting the lives of roughly 510 million people. The concept was created in order to provide a single market of EU policies, laws and trade standards through which member states could participate freely in order to sell and exchange goods, services, and capital within this market. The EU was formed in 1993, and ultimately led to the 'Euro' becoming a widely popular and accepted currency of global trade in the late 1990's. The Euro currency unified global trade for the European Union as well as those nations that participated. The Euro currency left many nations to abandon their own currency accepting the Euro as their only currency.

What is *Brexit*? *Brexit* was the term coined for the *exit* of Great Britain from the European Union. Contrary to other nations within the EU, Great Britain never gave up the British Pound as a currency. Other nations, such as Germany, no longer maintained their own currency and as a result fully backed the use of the Euro. Great Britain, however, did not. For what it's worth, the 'UK' is comprised of England, Northern Ireland, Scotland and Wales. It's also worth noting that Great Britain does not include Northern Ireland.

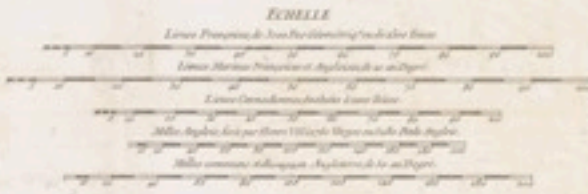
Why did they decide to exit? What's the big deal, and why was it important? The concept of exiting the EU was pushed largely by political forces within Great Britain. There were movements both for and against the decision, with the Obama administration in favor of the UK remaining on the side of the EU. Immigration laws, and ultimately jobs, were at the forefront of this decision. With borders that were are more 'open' than pre-EU standards, jobs had largely flowed into the hands of immigrants and other nations within the EU, rather than remaining within the borders of the UK. With open trade, similar to the North American Free Trade Agreement (NAFTA) in the early 1990's, it was not a huge wonder that businesses looked to the benefits of a European Union for purposes of lower wage costs, and ultimately higher profits.

Implications for the Euro. The Euro currency was largely built on the fact that multiple countries used a single currency. This had the impact of virtually eliminating the currency risk

Image: Early cartography of our country. We had an interesting view of how we thought our country (not to mention Michigan) looked back then.

CANADA
LOUISIANE
ET
TERRES ANGLOISES

PAR LE S.r D'ANVILLE



JAMES BAY
CANADA
LAC SUPERIEUR
LAC MICHIGAN
LAC HURON
LAC ERIE
SIOUS
OUTAOUACS
OUTAGAMIS
MASCOUTENS
ALGOMQUINS
ILINOIS
MIAMIS
LOUISIANE
CAROLINE

"For U.S. investors, we are rather fortunate. The fallout is likely to be more limited, compared to European investors. The UK economy represents only 4% of the global gross domestic product (GDP), and U.S. economy is rather closed with 13% of our own GDP representative of exports to other nations."

from trading with an international partner. German companies could trade with Italian companies without fear of the negative currency implications when buying and selling products. Additionally, individuals could travel from one country to the other without having to exchange currencies in order to make the monetary-side of international travel easy and hassle free. Traveling from Spain to Italy was like going from Michigan to Ohio, with better food, of course.

What's been the downside of the Euro? In 2008, and 2009 we saw the need for massive amounts of stimulus within our own financial system. Since we were in control of our own currency this was relatively easy to do. Since we control our own pursestrings we effectively control the timing, the amount, and the duration of the liquidity needed. With the Euro, specific decisions are no longer made within the borders of each country. Rather, monetary decisions are made by a central bank that considers the needs of all parties that represent the EU. Countries that no longer have a defined monetary border with their own currency are forced to 'go with the monetary flow' of the entire union. This has been problematic for countries such as Spain, Portugal, Italy, and Greece. 'All for one, and one for all...' is the motto. Or, at least until Brexit came along. The Euro might turn out to be a financial experiment that sounded good on paper, but may not prove to be anything special over the long-term.

The Markets. For U.S. investors, we are rather fortunate. The fallout is likely to be more limited, compared to European investors. The UK economy represents only 4% of the global gross domestic product (GDP), and U.S. economy is rather closed with 13% of our own GDP representative of exports to other nations in total.

The stock and bond markets are far more global, however. As we witnessed, the markets responded to this decision with a volatile swing to the downside. International equities bore the brunt of the losses in the near-term, throwing a tantrum at the decision. Domestically, our markets moved downward with less momentum as they most likely should have. Forty percent of the earnings of the largest 500 companies in our market are derived from international revenues, making our markets more sensitive to global economic concerns.

How does this impact our own Federal Reserve and their related decisions? Most likely, this will keep the Federal Reserve from increasing interest rates at a feverish pace. The most likely scenario was that rates would rise but far slower than predicted. With the European situation at front and center, it is unlikely that the Federal Reserve will continue tightening monetary policy (referred to as 'hawkish' policies), and will most likely continue down the path of an easy monetary policy, commonly referred to as 'dovish.' Strangely, the Euro currency has been fairly consistent during this whole process. If it is seen that the Euro is under fire with additional players in the EU initiating their own referendums for purposes of exit, it could be that the US dollar would appreciate, which could be a negative for purposes of our own exports. The most likely scenario, however, is for the opposite to happen; the Federal Reserve continues to keep a lid on interest rates, the value of the US Dollar falls slightly as the European situation settles down and they regain their composure.

In Short. We don't view Brexit as anything that will bring the world to a screeching economic halt. The European banks will begin considering the same capital requirements as we did in 2009 and 2010, and other countries will most likely reconsider their involvement in the EU as well. As with most political moves, the markets will react in the short-term negatively. However for the traditional investor, this is just another news item that will be long gone and forgotten as time continues. We pulled away from Great Britain back in 1776, and look at how we've done. OM

Image: Crazy Horse Memorial, Black Hills, South Dakota. Started in 1948, and is far from completion.

THE *FIDUCIARY* STANDARD

'Brokers' or 'Advisors' what's the difference? With the recent Department of Labor ruling concerning qualified retirement plan administration, there is a newfound interest in defining the word 'fiduciary' once again.

First, we would like to provide the definition of *fiduciary*. A fiduciary is an individual or firm that is to make decisions in the best interest of the client, even ahead of the financial interests of the company.

An investment advisory firm is a company that makes *decisions for the client,* while a broker makes suitable *recommendations* to the client, ultimately expecting the client to make the decision.

Merrill Lynch, Morgan Stanley Smith Barney and Edward Jones are largely regarded as brokerage firms that employ people known as Registered Representatives. They represent the interests of the company, and may place the financial interests of the company, via certain products and services, ahead of the interests of the clients they work with. They are to provide suitable recommendations to the client knowing the client's financial situation, objectives, tax circumstances, and time horizon. The ultimate decisions concerning whether or not to follow those recommendations will lie with the clients themselves since the broker is not making the decisions for the client. Again, they are only making *suitable* recommendations based on a knowledge of the facts provided. This standard of care is known as the '*suitability* standard.'

Investment Advisors, however, are bound by the '*fiduciary* standard' of care. Since investment advisors are considered to be fiduciaries - compared to 'brokers' that are not - investment advisors generally make decisions *for the client*. As investment advisors and fiduciaries, investment advisors stand in the shoes of the client and make the best decisions possible knowing all the facts and circumstances about their goals and objectives as well as the investments themselves.

Larger firms may have their own products and services that are generally offered on a commission basis. Old Mission, for reference, is not paid on a commission basis, nor do we offer proprietary products that provide a financial incentive to our firm. Everything we offer is evaluated based on the merits of the investment and not the compensation paid to our group since we are not paid by the fund company, but rather, are paid by our clients.

For brokerage firms that sponsor their own funds, management platforms, or offer commission-based solutions, there can be a financial incentive to 'push' those products as opposed to other products or services that may have lower operating expenses. A broker working at a brokerage firm is required to outline all the costs, expenses, and risks of any investment they propose to a point where *you* have all the information required to make a decision on your own.

Advisor titles can be a bit misleading. Financial Advisors, Investment Advisors, Investment Managers, Registered Representative, to name a few. Sadly, it really requires a client to do a little more due diligence on the types of investments offered, who the advisor works for, and how the advisor is compensated before you can truly understand whether or not they are working as your fiduciary, or wether they are acting as a salesperson for the company.

Image: Wednesday night racing, Lake Charlevoix. Farr 30 (formerly known as a 'Mumm 30'), *Montuno,* Charlevoix Michigan. Photo Credit: Autumn Lamb

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USA
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SCHWINN®
CHICAGO

"We organized Old Mission to eliminate conflicts. We are a fee-only registered investment advisory firm that receives level compensation no matter which product or service you choose to receive. We make decisions for our clients, act as your fiduciary, and place your interests squarely and unequivocally at the front and center of our relationship."

We would like to offer a few definitions as well as the questions that could be asked to clarify your advisory relationship.

Financial Advisor. A financial advisor can be compensated by either commissions or advisory fees. They generally provide guidance on a variety of different matters such as financial planning and investment management.

Investment Manager or Portfolio Manager. These are individuals responsible for the day to day investment management of a stock or bond portfolio. They usually manage the money within your mutual fund and are responsible for making the decisions with regard to which stocks or bonds to buy or sell. Mutual funds will employ portfolio managers who are responsible for managing a portfolio of securities within a given objective.

Registered Representative (RR). A registered representative is an employee of a brokerage firm. They represent the company and provide *recommendations* to clients concerning which investments to buy or sell. They may be paid commissions based on the products sales that they represent. They are not considered to be a fiduciary when serving in this capacity. Another term for a registered representative is 'broker.'

Investment Advisor Representative (IAR). An advisory representative is affiliated with an investment advisory firm that is organized under the Securities and Exchange Commission (SEC). An investment advisor representative is generally regarded as a fiduciary under the law, and as a result must provide advice that is in the best interest of the client. They may offer many of the same products and services as a registered representative; however, they are generally compensated through advisory fees for this service, as opposed to commissions as a result of any sale.

Registered Investment Advisory Firm (RIA). A registered investment advisor cannot be an individual, and can only be an entity. RIA's employ investment advisor representatives that disseminate advice and counsel on behalf of the company. An RIA is a company that delivers fiduciary services to the clients of the firm, and is held to a higher standard of care when compared to a general brokerage firm.

Broker Dealer. A broker-dealer is a firm that offers brokerage products, generally speaking, for a commission-based fee. They are regulated by the Financial and Investment Regulatory Association (FINRA) as opposed to the Securities and Exchange Commission. FINRA regulates brokerage activities, while the SEC regulates advisory services and their representatives.

A Few Questions. *"How are you compensated - by advisory fees, or by commissions?"* This can be a very basic question. Advisors that offer both types of compensation arrangements - both commissions and fees - are known as 'dually registered' advisors. The problem can occur if both types of arrangements are offered under one roof. The advisor may be able to pick and choose which is most beneficial to the advisor, as opposed to the needs of the individual client.

Have you ever had any complaints filed against you or your firm? There are complaints that are largely operational. There are complaints about general market conditions. Then, there are complaints that involve the actual advice or recommendations given. For advisors that have had complaints filed against them concerning the advice or recommendations made, this can be a serious issue that may require more time and attention. The FINRA regulatory authority and SEC both maintain websites that provide the details regarding any customer complaint that are open for public review. Prior to investing with any advisor, this is a good 'first place' to review the record of your advisor.

Do you or your firm benefit by recommending one product over another? There have been many instances in the past whereby firms were fined for not disclosing 'backdoor' deals with mutual fund companies, or annuity providers. With advisors getting enhanced commissions or travel incentives to recommend certain products to their clients, this can be a big issue.

Does your company provide sales incentives for certain products? If the answer is 'yes,' understand that your advisor may not be working in your best interest, and is more worried about their trip to Europe rather than recommending a suitable mutual fund or annuity. Some companies place sales quotes on their advisors requiring them to sell a certain number of annuities, mutual funds, and stocks for each and every client. This type of organization strikes us as something offered by a sales organization, and not a wealth management firm.

The financial and investment business is a tangled web. Even advisors at times don't fully understand the differences between RIA's, and IAR's, RR's, broker dealers, and wealth management firms. We wish it were easier to tell the differences between all the advisory platforms and the types of advisors that are working within our communities. Commissions and advisory fees are vastly different methods of compensation which may have a tendency to taint the type of products and services you receive.

We organized Old Mission to eliminate those conflicts. We are a fee-only registered investment advisory firm that receives level compensation no matter which product or service you choose to receive. We make decisions for our clients, act as their *fiduciary*, and place their interests squarely and unequivocally at the front and center of the relationship. We love our business, and hope that you do too. OM

Image: Schwinn Bicycle Company, Chicago Illinois, representing a standard of quality for bicycle manufacturers.. Founded by Ignaz Schwinn in 1895. Vintage Schwinn bicycle, Harbor Springs, Michigan.

FUNDING *YOUR* TRUST

What does it mean to 'fund your trust' and to do it properly? Leaving assets outside of your trust may require special attention just to make sure that your intentions are consistent for all the assets held within your estate.

Your trust is a box. You either have to put things in the box, or you ultimately *point things* to that box. How do you make sure that your trust is funded and that your trust is fully utilized for the purposes for which it was created?

The funding process involves re-titling assets into your trust. It's also the area of the estate planning process that is fraught with potential problems. Any asset that you don't title into the name of your trust, or any assets that are not pointed *to your trust* may carry a significant chance of having to go through probate court. Clients have gone through a tremendous amount of time, energy and money to draft trust documents, and we would like to make sure that they are used properly and effectively.

It's all about the title. When you are discussing the 'funding' of your trust, the *title* of the asset in particular is what is ultimately very important. For your trust to own, control and ultimately distribute assets to your beneficiaries free from probate court, the trust itself must be the owner and holder of the property at the time you have passed. As an example, for your trust to control your stocks and bonds, your trust must be listed as the account owner. A trustee has no power to administer assets on behalf of assets that the trust does not own. However, a durable power of attorney may come into play for purposes of assets that are not and cannot be owned, outright, by your trust. This may be the case for assets such as annuities, and retirement accounts.

Powers of Attorney (POA). A properly-drafted power of attorney may give a named individual (referred to as an 'agent) which is usually your spouse or your children the ability to manage non-trust assets, such as IRA accounts, annuity contracts, and single bank accounts. At times, a POA will also permit the agent to appoint beneficiaries, or transfer assets to your trust in your absence. A power of attorney can head off a potential problem by locating assets that need to either be pointed *to* the trust; or, they can transfer assets to the trust as well. Some POA's are written with broad powers, and others are more restrictive; however, POA's can be a useful tool when making sure a trust is funded, even after the incapacity of the grantor.

Deeds. Make sure that your house, and the various properties that you own are titled in your trust. The deeds to your trust can either be recorded at the time that they are signed, or, they can be recorded after your death. Quit-claim deeds are effective upon the signing by the original owner of the property. They can be recorded after death. We generally counsel clients to execute and record a deed immediately following execution in order to keep the deed from being lost or misplaced. Since deeds are public documents, some people - very few, actually - prefer not to have them recorded publicly until they have passed.

No matter your preference, once you have signed your property deed you have taken another step toward funding your trust with your assets.

Personal Assets. Generally, personal assets are tangible items such as art collections, jewelry, other collectibles, and household furnishings. A trust will also own those items upon the execution of an 'assignment of personal property.' This is a

document that should be prepared by your attorney and is effective upon signing. This document transfers your personal assets to your trust during your lifetime so that when you pass, your trust owns, controls, and ultimately distributes your personal effects in accordance with your trust document. Absent this document, it could be argued that your personal items should go through probate.

For larger estates that may require an auction firm to liquidate assets, the auction company may want to see that the trustee has the right to direct the liquidation of the assets. An assignment of personal property provides that such a transfer has taken place, and that the trustee has proper authority to manage, including the liquidation, of those assets.

Business Interests. For those who have an interest in privately held businesses, it's important to transfer those as well to your trust. S-corporations, C-corporations, sole proprietorships, and limited liability companies (LLC) are all examples of business entities that are held, generally, by private individuals. Upon the creation of your trust, shares and membership interests in businesses should also be transferred to your trust. An 'assignment of interest' is a document that may assign your interest in an LLC from your personal ownership to your trust. It's important to make sure that the ownership is approved in the minutes of the company for purposes of an accurate record. S-corporations require a little more homework since S-corp stock requires 'special treatment' within your trust document in order for your trust to be a qualified trust for purposes of holding S-corp stock. Once you have transferred ownership to your trust, and you should pass away, your trust will be bound by the operating or shareholder agreement in order to continue operating the business or for purposes of an orderly liquidation.

Half Pregnant. We've seen a number of people execute well-planned trust documents. They have wills, trusts, durable powers of attorney and adequate health-care documents all within a neat and tidy book. They look great. However, the work only begins once the documents are signed. Assets still need to be transferred to the trust only *after* the trust has been created. This is where the 'wheels can fall off the wagon,' so to speak. It's the weakest part of the process.

Apart from appointing assets to your trust via appropriate beneficiary designations, please make sure that you don't have assets on both sides of the aisle; meaning you don't have some of your assets in your trust, and some of assets outside of your trust. To us, that's an ineffective plan that is ripe for failure. Having assets scattered here, there, and everywhere doesn't mean that probate court will consume every last penny. However, if you are intending on leaving things 'messy' for your beneficiaries, we may ask 'What's the point of creating the documents in the first place?'

Have an Advocate. In short, if you have assets, and have gone through the time and effort of creating a trust, don't forget about the funding process. It is time consuming we know, but it's worth doing right. Consider using our firm as your advocate. We can work with your attorney, your CPA, and your other financial professionals to ensure that your assets are either titled correctly, or that they are 'pointed' in the direction of your trust via properly beneficiary designations. This includes things like bank accounts, personal property, homes, real estate, brokerage accounts, retirement accounts and annuities. All require a special level of knowledge to navigate the rules and regulations when appointing proper beneficiary designations or trust ownership. Annuities and other tax-deferred accounts are especially tricky since tax considerations and consequences almost always come into play.

We admit that life can be complicated. Financial matters are no different, and with money comes great responsibility even after we are gone. OM

Image: P.H. Hoeft State Park, Rogers City, Michigan. Lake Huron.

YOUNG KIDS *AND* THE *PLANNING* THAT COMES WITH THEM

There are things that young families should consider.

Kids aren't cheap. Well, maybe they are if you've ever asked them to share their piggy bank or snatch a lick from their ice cream cone. But, in the monetary sense they come with strings attached. For responsible parents there are a number of items that you can do to make good financial decisions early, in addition to having structure in place in the event both parents were to pass away.

529 Plans. There are only a small number of ways to save money for a college education, with the most popular and flexible option being the 529 plan. 529's permit parents and grandparents the ability to contribute funds on behalf of a child, while permitting funds to grow tax free when withdrawn for qualified college educational expenses. There is no Federal tax deduction when funds are contributed; however, if you open a state-sponsored 529 plan account you may be entitled to a state deduction, within limits, for purposes of your contribution. Funds may be transferred to other children within the family if unused by the original recipient. They are, by far, the most advantageous planning tool for college savers.

UGMA and UTMA. Uniform Gifts to Minors, or Uniform Transfers to Minors accounts were at the forefront of planning back in the 1980's when 529 plan accounts didn't exist. UGMA and UTMA accounts provided a way to deposit funds into a 'custodial' account established for the minor. Funds deposited to these types of accounts are required to be used for the benefit of the minor; however, not necessarily for purposes of a college education. That said, UGMA and UTMA accounts are very flexible in terms of their application.

Funds 'gifted' to UGMA and UTMA accounts are considered to be irrevocable gifts, and cannot be removed for any purpose other than application for the financial benefit of the minor. These types of accounts carry no current tax benefits at the time the funds are gifted; however, the funds that are gifted are considered to be outside of the estate of the individuals that made the gift. Additionally, the IRS will be keenly aware of any activities that a custodian takes within UGMA and UTMA accounts with dividends, interest, and any realized capital gain transactions taxable on your child's tax return.

Image: Sleeping Bear Sand Dunes as seen from South Manitou Island. Lake Michigan, sunset.

"For those who have children, but also have limited resources to a point whereby a full-blown trust doesn't make sense, a 'testamentary trust' might be a prudent consideration. These types of trusts are only created upon the death of the last spouse, and are created through your personal will."

Image: Canada Goose, spring 2016. Grand Traverse County.

What's the difference between UGMA and UTMA, you ask? UGMA accounts become the property of the minor at age 18. UTMA accounts can be delayed a few additional years. So, for parents worried about protecting their children from the downsides of a huge financial windfall, understand that the control of these accounts will become your child's at some point. Good or bad, it will become their property, period, and with no strings attached.

Testamentary Trusts. For those who have children, but also have limited resources to a point whereby a full-blown trust doesn't make sense, a 'testamentary trust' might be a prudent consideration. These types of trusts are only created upon the death of the last spouse, and are created through your personal will.

A testamentary trust is also known as a 'trust under will.' Meaning, it's a trust that is only created once a will takes effect. When does a person's will take effect? Only upon the death of the individual. Once the individual has passed away, their will goes through probate court and directs the decedent's personal representative concerning the disposition of the decedent's assets. In the case by which a testamentary trust is created under a person's will, the assets of the deceased (assuming no surviving spouse) will be directed to a trust administered for the benefit of the child.

The trust is generally administered for the benefit of your children, and will most likely have distribution provisions for purposes of the child's education, healthcare, and other expenses related to the child's well-being. It may also have a clause that directs the trustee to terminate the trust once the child turns a certain age. Only at that time, will a child 'own' the trust property.

Insurance. Proper insurance coverage is almost a 'must have' for parents with young children. While insurance coverage is generally not for purposes of establishing a significant financial windfall for your children, it is something that can be useful in consideration of debts that may be required to be satisfied in order for a family to maintain a solid financial footing. Each situation is specific to your circumstances, and coverage should vary based on savings amounts, income replacement needs, and the ages of your children.

For those who have created a trust outright, or opted for a testamentary trust to be created upon their passing, it might be suggested that your estate serve as the beneficiary of your insurance contract. If you appoint your estate, and have a properly structured will, your testamentary trust will govern your insurance proceeds for the benefit of your children with the terms and provisions you selected.

Gifting. As mentioned within the UGMA and UTMA section of this article, it is possible to make annual gifts to your children or grandchildren even though they are minors. For those with an eye toward prudent estate planning, it is possible to create something known as an 'annual exclusion trust' that permits the trust to receive annual gifts from you to the trust. The trust is to be administered for the benefit of the minor; however, it will also qualify as a bonafide way to reduce the value of your own estate, should it be necessary. These types of trusts are a bit more complex than traditional trusts since they are irrevocable at the time they are created. This is in contrast to a revocable living trust, the terms of which can be modified during the lifetime of the grantor. An irrevocable annual exclusion trust is not able to be changed, but can remain as a flexible tool to accommodate both the estate planning needs of a parent or grandparent, while also providing a long-term source of funds for the benefit of a minor. These types of trusts can exist for a number of years well beyond the age of 18.

Each and every situation is different. While kids are certainly a joy to have around the house, the planning that should be done from a financial perspective is a 'must do' to make sure that things are handled in an orderly fashion in the event you should pass away. While it's unlikely that both parents would die together, some planning should be done to prevent children from financially harming themselves, as well as protecting their assets for purposes of their own care. Having a plan, both now and in the future, can be the greatest gift of all. OM

WHAT IS *YOUR* TIME HORIZON?

What is a 'time horizon' and how do you define yours? Is it based on an assumed retirement date, the date of a certain event such as college funding, or is it based on your overall life expectancy?

Choosing your investment 'time horizon' is tricky. For some, it's heavily dependent upon the beginning of a child's education. For other's, their time horizon is based on a termination date of a trust, or the date of their retirement. Is there a better way to consider your time horizon?

What *is* a Time Horizon? A time horizon is the amount of time an investor expects to maintain a specific investment or portfolio allocation in contemplation of a stated goal. Investments are structured to meet income needs, liquidity needs, or a goal that ultimately reduces risk once individuals have separated from their job.

A time horizon also has the ability to influence the amount of risk that an investor can assume. A longer-term time horizon would permit a client to assume more risk. A short-term time horizon will most likely cause a client to assume less risk. Generally, time horizons are measured in terms of years.

Retirement. A client who is 50 who is expecting to retire at 65, *may* have a 15 year time horizon. However, it's also worth noting that the 50 year old client will also have a 35 year life expectancy. So, which time horizon should you consider in making a decision? Do you use the 15-year retirement date, or the fact that the client will require income for the next 35 years? The answer isn't always a simple one.

For retirees, it's generally wise to consider the differences in investment strategies that favor wealth *accumulation* vs. wealth *distribution*. For many people the strategies used during a period of wealth accumulation require target rates of return that are higher, as well as investment vehicles that carry greater amounts of volatility. These types of investments may not be suitable for those seeking to draw income. That said, a time horizon decision for purposes of establishing a prudent asset allocation, the decision to own varying amounts of stocks, bonds, and cash assets, is most appropriate. Generally speaking, investors shouldn't approach an upcoming retirement date holding 100% of their assets within equity-based investments. That said, the first decision generally is made in contemplation of protecting assets from a substantial decline in the years just prior to retirement.

Does an investor convert everything to cash upon retirement? Is that how a time horizon works, whereby once your time is 'up' you make massive shifts in your portfolio's structure? No. However, it is prudent and acceptable to gradually reduce risk in accordance with an approaching time horizon as the needs placed upon the portfolio change.

Risk *aversion*, however, is not something that we would ever encourage. As investors reduce risk in contemplation of a retirement date, it's important to note that once you reduce risk in one area of your portfolio, you may incur risks in other areas. Retirees who shift portfolios from stocks to bonds are making efforts to reduce the volatility within their portfolios. However, they are also assuming the potential for reduced returns and heightened potential plan failure. Since financial plans generally make the assumption that *some* risk is necessary, completely removing risk based on an approaching time horizon is not prudent.

Equities. Stocks should always be a part of an investors' portfolio. They tend to protect against inflation, generate modest amounts of income, and will serve as a diversifying asset class when used in combination to a fixed income portfolio. Just because an investor has retired doesn't mean that equities should be eliminated from an investment portfolio. Back when financial planning was new, a rule of thumb was that your age should equal the amount of money you maintained within your bond portfolio.

Image: Strawberry moon, Lake Charlevoix, Michigan.

"With the 10-year Treasury bond yielding less than 1.5%, not to mention the non-existent rates paid on CD's at the moment, and the dividend rate for stocks using the Standard and Poor's 500 approaching 2.3%, it stands to reason that the amount of cash flow generated from a dividend-paying equity portfolio might be more attractive than a fixed income investment."

The older the investor, the more conservative they became. The younger the investor, the more aggressive the portfolio since building wealth was a primary consideration. Is this still the rule that should be used? In our opinion, no.

With the 10-year Treasury bond yielding less than 1.5%, not to mention the non-existent rates paid on CD's at the moment, and the dividend rate for stocks using the Standard and Poor's 500 approaching 2.3%, it stands to reason that the amount of cash flow generated from a dividend-paying equity portfolio might be more attractive than a fixed income investment. While there are risks to the principal within any equity-based investment, it might stand to reason that both the income and potential for growth of capital may be a better combination for investors even with a moderate time horizon.

Fixed Income. Fixed income assets are generally regarded as *bonds*. They carry less risk when compared to stock-based investments. For investors with a shorter-term time horizon, they are the 'go to' investment of choice since they tend to fluctuate less than their equity-based counterparts. They produce a higher amount of current income, also come in a variety of different types, and may be used to balance the risks within an investment portfolio. Bear in mind, as interest rates have continued to drop, so have the incomes provided by bond portfolios. For investors on a fixed income, this has been incredibly problematic. They may have saved themselves the trouble of volatility, but the income generated from bond portfolios has dropped substantially over the years.

Implementation. As you gradually age, it's not a foregone conclusion that you must reduce equity exposure. Also, it's not *always* recommended that fixed income allocations comprise a majority of your portfolio once you've retired. Each allocation is recommended through a discussion and decision making process through your advisory relationship with our group, taking a variety of considerations into play - life expectancies, tax situations, and the expected longevity of the money beyond the lifetime of the original account holder are all important elements to be reviewed. Beneficiaries and their own situations should be taken into consideration, too.

What is Long-Term? The long term, as defined by our group, is the 'rest of your investing lifetime.' Taking a long-term view means paying less attention to the short-term volatility while focusing more on the fundamentals of the economy, dividends, and the health of the underlying companies within a portfolio. We've gone through wars, recessions, corrections and bear markets. However, for the long-term investor that continued to hold assets through all periods, they seem to have been fairly treated with good returns and good incomes. The long-term view is difficult to maintain when you feel that the world is falling apart.

We can't recall who this quote belongs to, but it's a good one... 'the problem with the long-term, is getting through the short-term.'

People love Michigan summers. However, getting through the *winter* is the problem, for some. OM

Image: Volkswagen 'bug.' Harbor Springs, Michigan.

HOW TO *WIN* AT THE TAX GAME

It's not what you make, it's what you keep. Taxes can be one of the largest costs to investing. Retirement accounts have a 'hidden partner' known as the IRS that will collect a portion of your income, too. What are all the strategies that when combined together give you an edge over the tax man?

As a wealth management firm, we have been involved in many of the largest financial decisions that many of our clients have made during their lives. The purchase of a home, retirement planning, gifting to children and loved ones, tax matters, and the inclusion of new family members. What are the items that you can do to ensure that you are minimizing the taxes you pay over time?

Charitable Giving - The IRA. Recently, laws were made permanent that permitted individuals who were over 70 1/2 to make charitable distributions directly from their IRA to qualified charitable organizations. Any distributions that were directed in this manner would ultimately reduce the remaining amounts that were required to be taken under the required minimum distributions for the investor. This action has the impact of ensuring that 100% of the contributions qualify for the charitable deduction.

Charitable Giving - Stocks. Giving away appreciated assets has always been a long-time favorite of investors. You get a charitable deduction based on the full value of the securities donated without paying any taxes on the gain. The institution that receives the securities can sell the position without tax. You deduct the value of the contribution on your personal tax return, if you are entitled to such a deduction, subject to many of the deduction limitations that may exist based on your own personal situation.

Municipal Bond Income. For investors in higher tax brackets, municipal bond income can be a great tool for current income. Income distributed from municipal bonds is generally regarded as 'tax free' to the recipient. Municipal securities are backed by the issuing municipality and in some instances carry certain levels of insurance against default and other problems. Income from municipal bonds can be federally tax free, and in many situations state tax free as well. For conservative investors seeking income from their portfolios municipal bonds can offer great tax advantages. Municipal bonds are not suitable for retirement accounts.

Taxable Bonds. Where should they go? For investors who hold bonds for purposes of generating income, *and* they also have a retirement account, bonds may be best held within their retirement account. Since the taxation of retirement distributions is taxable at an investors' ordinary income tax rate it is best to hold taxable fixed income assets within your retirement account, since the taxation of those assets is no different than the account itself. For investors who are not taking distributions, holding fixed income assets within the IRA is a good strategy. As opposed to holding taxable fixed income assets within a taxable account such as a joint account or a trust, there would be no taxes owed until funds are distributed.

Stocks. Where should they go? Stocks are great assets to hold within a taxable account. Due to the fact that the government taxes capital assets such as stocks at a reduced rate compared to income-based assets such as taxable bonds, there is a benefit in holding stocks within a taxable account. With long-term capital gain income taxed at a rate generally no higher than 15%, this pales in comparison to the 40% tax rate on basic income-based assets. Also, unlike a bond portfolio you pay taxes only at the point when *you* choose to sell a particular investment. This gives the investor control on the timing of when taxes shall be paid, as well as control concerning the *amount* of taxes that may be paid as well. Additionally, equity-based assets can be

structured conservatively for purposes of producing income since the dividends paid by stocks and stock funds are also tax advantaged. By placing stock-based assets within an IRA, you lose this tax advantage. It is best to shift equity-based assets to taxable accounts, while maintaining income-based assets within any tax-deferred accounts.

What do you spend first? The IRA, or the Trust? It's worth noting that traditional IRA assets left to beneficiaries will carry the highest tax consequence of all the assets within your estate. The IRS salivates at the thought of all the retirement assets they've encouraged savers to use over the years once those assets pass to the next generation. They come with a healthy dose of income taxes, not to mention the potential for estate taxes as well. Your trust, joint account, and single account (also referred to as your 'taxable account') does not carry such tax. For those looking to maximize long-term growth, while minimizing taxes along the way, it might be advisable to spend (or give away charitably) your IRA assets away during your lifetime, while leaving your taxable stock portfolio to grow for the benefit of your heirs down the road. There is no income tax owed upon your passing when distributing your stock portfolio from your trust to your beneficiaries. Your IRA is a different story.

Roth Conversions. Are they worth doing? In 2008 when Congress created the Roth IRA, they also granted certain investors the ability to convert existing IRA balances to Roth IRA's. This required investors to pay taxes on balances as they were converted, and generated a significant windfall for the US Treasury. For reference, it was one of the first times in recent history when our nation actually ran a budget surplus.

The question is 'are conversions worth doing?' For some investors, converting assets to a Roth IRA is a good option. It may depend on the tax situation of your beneficiaries, compared to your own. If there is a larger tax owed at the time your beneficiary inherited your retirement account, it might be worth considering a conversion now at your own *lower* personal tax rate. Any assets inherited through a Roth IRA are not subject to income taxation once received. This is in direct contrast to the traditional IRA held by many investors.

Retirement Plan Contributions. Are retirement accounts the best place to save? In our opinion, an investor should save as much as needed in order to provide for a comfortable retirement during *their lifetime*. Anything beyond that level should be saved in a more tax-friendly manner, such as through a trust account, a taxable account, or a Roth retirement account. Additionally, by saving funds outside of a retirement account, you are also giving yourself 'choice' in terms of the types, timing, and amount of tax that you pay. We agree that the IRS has given many people a great way to save money through 401K plans, IRAs, and other vehicles, but they come at a tax cost down the road when they are withdrawn for income purposes or passed to the next generation.

In sum total, taxes play an important role in our financial lives. There are a number of different options, avenues, and considerations in the planning process. Some strategies are simple and straightforward, while others require substantial planning and discussion with family. While we can't control the variability within the markets, there are some elements to the investment and wealth management process that can be more controllable, if needed. Tax rates, and their related impact on your portfolio can be a moving target, and it's always good to keep an open dialogue with your advisor along the way. OM

Image: The Miriam and Ira D. Wallach Division of Art, Prints and Photographs: Photography Collection, The New York Public Library. "Grand Hotel, Mackinac Island, Mich." The New York Public Library Digital Collections. 1898 - 1931.

FIDUCIARY RULE FOR *EMPLOYERS*

By: Keith Olshove

If you are a small business and have a 401k plan, the new Fiduciary rule is an important step forward concerning the application of advice by advisors to your employees. This rule takes the Fiduciary Standard and extends its reach to employer plans and their participants.

After a long, and drawn out affair, on April 8, 2016, the Department of Labor published a new regulation (the "Fiduciary Rule") that greatly expands the activities that make one a fiduciary under the Employee Retirement Income Security Act of 1974, ("ERISA"), by providing "investment advice." In our last publication, I outlined the primary fiduciary responsibilities accepted by, and duties required of, business owners/executives when they establish and maintain a retirement plan for their employees. Fortunately, this new rule is not piling more on plan sponsors as it primarily targets the providers of plan products and services. However, like any new regulation, there are always things our plan sponsor clients should be aware of.

First, a brief overview of the new Fiduciary Rule. The Fiduciary Rule provides that one is an ERISA fiduciary if, for a fee, one makes a "recommendation" to a plan, plan fiduciary (e.g., an investment committee), or plan participant or beneficiary regarding, among other things, the purchase of investment products or services, whether to take a distribution from the plan, and whether a plan distribution should be rolled over to an IRA to. A "recommendation" is "a communication that, based on its context, and presentation, would reasonably be viewed as a suggestion that the advice recipient engage in or refrain from taking a particular course of action." The definition of "recommendation" is broad and intended to cause more product and service providers to be fiduciaries, particularly in the sales context, unless certain exceptions apply.

The Fiduciary Rule is accompanied by several new or amended "prohibited transaction class exemptions" that allow investment advice fiduciaries to continue to receive compensation that would otherwise be prohibited under ERISA and the Code. The most important new exemption is the Best Interest Contract Exemption (the "BIC Exemption"), which allows advice fiduciaries to continue to receive commissions and other forms of compensation, provided the fiduciary makes an enforceable commitment to, among other things, ensure that its recommendations are in the best interest of the plan or participant.

In a nutshell, this rule is saying that that the "Fiduciary Standard" must be adhered to when working with ERISA plans and IRAs instead of the weaker and more nebulous "Suitability Standard" (see accompanying article). The basic premise is that financial advice is inherently conflicted if the advice given affects the compensation received (i.e. commissions). That is one of the primary reasons that firms such ours only serve our clients on a level fee basis and always adhere to the Fiduciary Standard in our practice.

As a side note: Throughout the process, it was amazing to watch the how opponents of this rule were suggesting that a large swath of the investing public would go under-served or unserved at all if this rule were put in place. The notion that requiring brokers to act as non-conflicted advisors when helping people with their retirement accounts will somehow disenfranchise

Image: Beaver Island Toy Museum. Louis Marx 1930's Wind-Up toy, the 'Busy Bridge.' One of the largest wind-up toys ever made.

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Fiduciary Rule (ctd.)

millions of investors is ridiculous at best. Any common sense person would agree that is how it should work.

As mentioned earlier, the new Fiduciary Rules are aimed at the financial industry, but here are at least five items of note for Plan Sponsors:

What employee benefit plans are covered by the Fiduciary Rule? The Fiduciary Rule applies to ERISA-covered employee benefit plans with an investment component. Thus, it will cover recommendations with respect to retirement plans (e.g., 401(k)), including recommendations for participants to roll out of a plan and into an IRA, and certain health plans (e.g., Health Savings Accounts).

How does the Fiduciary Rule affect participant education? Because of the broad use of the term "recommendation", many employers were concerned that they could inadvertently be giving advice when they simply were trying to educate employees. The Fiduciary Rule generally allows plan sponsors and service providers to continue to provide investment education to participants without becoming investment advice fiduciaries. There was, however, some expanded guidance particular to plans that offer asset allocation models and/or interactive investment materials that identify specific investments available under the plan. These materials and processes should be reviewed.

How does the Fiduciary Rule affect plan sponsors' employees? Employees working in human resources or financial departments who provide recommendations directly to the plan's named fiduciaries (e.g., the plan's investment committee) are generally not investment advice fiduciaries under the Fiduciary Rule because they do not receive any fee or other special compensation in connection with their recommendation.

What service providers will become fiduciaries? The Fiduciary Rule greatly expands the types of activities that constitute fiduciary investment advice, including many marketing and sales communications. However, the Department of Labor (DOL) has clarified that there are a number of types of interactions between service providers and plan sponsors that are not fiduciary in nature. These are primarily based on allowing providers to promote what they have to offer.

How will the Fiduciary Rule affect service provider relationships? The DOL's publication of the Fiduciary Rule is a watershed moment for the retirement system, and it will result in significant changes in virtually all corners of the industry. Although the most drastic effects of the rule will be felt by financial institutions, plan sponsors will likely see material changes to their service provider relationships, and they may be asked to, among other things, amend existing contracts or make novel representations or warranties. OM

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