



SAMPLE

You are a trusted adviser for your clients, and as their wealth manager, you're in the best position to help them with their trust needs by mastering the complex responsibilities

STANDING WATCH

By Lisa Gray

WHEN WEALTHY PEOPLE DECIDE TO PROTECT THEIR ASSETS OR ensure the assets' safe passage to future generations, they look to trusts to fill the bill. Clients don't think twice about the safety of trust assets or worry that the myriad number of critically important administrative and fiduciary tasks will be fulfilled—accurately and on time. But that confidence often can be misplaced and the resulting damage not known until after the fact when the family may already have been hit with serious tax consequences and fiduciary breaches, or their wishes for their wealth go unfulfilled. From the perspective of wealthy clients, having a trusted adviser to oversee and monitor trust activities and administration as well as coordinate all advisers involved with the trust is a vital service that eases their minds and saves them money. From the adviser's perspective, it's an open door to greater assets.

But earning "trusted adviser" status requires more than simply managing trust assets. James E. Hughes Jr., author of *Family Wealth: Keeping It in the Family*, says that the investment side of the equation too often leads and the trust side becomes a product that is used to create an investment relationship, missing entirely the level of service demanded by the significantly wealthy. An adviser willing to

take on the role of *personne de confiance*, a French term describing a person who has the deepest confidence of the family vis-à-vis existing external relationships, offers clients the ultimate level of service and will attract and cement the wealthiest relationships.

Within such a trusted relationship, step one is to find out what's involved in trust monitoring and management, why the service is needed, how to get started, how to market trust monitoring and management services, and what clients may not know that they should know. Here's what clients look for:

- objective oversight
- coordination of the advisory team
- delegation of duties
- administrative documentation
- recommendation of investment strategies
- oversight of tax and estate planning
- negotiation of fees to outsourced providers, and
- general protection of their interests.

ROLES AND RESPONSIBILITIES

Beneficiaries	Trustees
<ul style="list-style-type: none"> ■ To gain a clear comprehension of each trust in which the beneficiary has an interest and a specific understanding of the mission statement for each trust as prepared by the trustees ■ To be educated about all trustee responsibilities ■ To understand the trustee's responsibility to maintain the purchasing power of the trust's capital while maintaining a reasonable distribution rate for income beneficiaries ■ To meet with each trustee annually to discuss personal financial circumstances and goals and to advise the trustee of his or her assessment of the trustee's performance of his or her roles and responsibilities to the trust, the beneficiary, and to family governance ■ To become knowledgeable about the functions and importance of each element of the family's trust governance structure ■ To attend the annual family business meeting and to accept responsible roles within the family governance structure based on his or her qualifications for such roles ■ To develop a general capacity to understand fiduciary accounting ■ To demonstrate a willingness to participate in educational sessions and to become financially literate (through family seminars or family-funded educational programs) ■ To know how and in what amounts trustees and other professionals are compensated and to obtain a general understanding of the budgets for the trust and investment entities in which the trust will be invested 	<ul style="list-style-type: none"> ■ To be fully aware of the grantor's original purpose in creating the trust and the current purposes of the trust, if these have changed over time ■ To guide decisions by these purposes ■ To act so that the actual operation of the trust is empowering to the beneficiaries, within the provisions of the trust ■ To put mechanisms in place to increase the level of financial awareness of the beneficiaries and to see that such financial education is carried out effectively ■ To meet at least annually with each beneficiary in order to renew the beneficiary's understanding of the trust as well as to obtain from each beneficiary full information, financial and otherwise, about his or her personal situation ■ To become educated about all beneficiary responsibilities ■ To evaluate and advise each beneficiary on how well he or she is meeting the roles and responsibilities of the beneficiary ■ To implement effectively the trust's general policies and procedures as they relate to the following: <ol style="list-style-type: none"> 1) the trust's investment goals and acceptable risks 2) the section and/or provision of investment advice and management to accomplish such investment goals within the given risks 3) the trust's tax position and the selection of tax services, and 4) the trust's legal position and the selection of legal services

The need for oversight is acute. "Even the very finest trust companies make mistakes," says Thomas J. Handler, JD, PC, and principal of Handler, Thayer & Duggan LLC

in Chicago. Price changes around dividend payments, stock sales, or stock splits may not be properly recorded, for example. Distributions may never be sent out. Trusts

may be set up but never funded. Multiplied over a period of years, these errors can become almost insurmountable.

Coordination of the team of advisers involved with the trust is another critical component of trust monitoring and management services. John P.C. Duncan, principal at Duncan Associates LLC in Chicago gets straight to the point. "Everyone's been talking for years about wanting to be the primary adviser within the broad counseling role, but there's been little discussion of the wealthy family's need for someone to run interference—to interface with—multiple wealth-services providers. The wealthy individual doesn't have time to vet them, coordinate them, instruct them, and supervise them—they need somebody else to do that."

Trust monitoring and management defines the "primary adviser" role and makes it tangible for advisers. The number of advisers working with family trusts could be as few as three—still more than clients want to have to manage—including the RIA, the trust company or trustee, and a tax adviser. For clients with larger assets, this number easily expands to include legal counsel, philanthropic advisers, property managers for the trust, international trustees, global custodians, domestic custodians, and others.

From an administration standpoint, trust monitoring and management double checks distributions record keeping of transactions and location of assets, proper recording of ownership of the assets, fees the trust is paying, tax management, and even initial funding of the trust.

From a strategy and performance perspective, an adviser providing oversight and monitoring must keep tabs on asset managers, property managers, custodians of hard assets such as real estate or gold, nonfinancial assets such as art and jewelry, income generation, and asset growth. Reports must be generated for each trust, whether a family has one or 100 or more. Performance attribution, confirmation that trust strategies and investments are in sync with the guidelines of investment policy, and hiring and firing decisions regarding asset managers add to

the list of monitoring duties. Such duties are an extension of the monitoring services performed in the investment management consulting process.

From that perspective, Handler recommends creating a separate investment policy statement (IPS) for each trust. "Advisers need to understand the context of the trust and its investments within the overall family plan—the assets, the income, the tax position, and the cash flow. People want a higher level of reporting than they're getting from the trust company. They want to know where everything fits within the asset allocation and the rest of the portfolio. They'd like a fully consolidated picture—something few family offices have and virtually no high-net-worth/high-income clients have."

That consolidated picture can be complicated. Families in their second or third generations could easily have 60 or 100 trusts or more, making monitoring and management services critical. Advisers have to monitor strategies and to recommend better, more efficient ones. For example, trusts having similar objectives and assets may be combined to meet minimum asset requirements of some managers. In the

case of a large family represented by many generations, multiplicity of trusts leads to duplication of administration and other services that can add up to "trust pork."

Handler illustrates such pork through the example of a family with two trusts but not enough cash flow. "Why don't we merge the two? Why are we doubling up on administration and costs? We can put these together and cut the investment fee, the trust fee, and legal and accounting fees—doesn't that make sense?" he asks. Imagine the value an adviser could offer a family with almost 200 trusts that had been created through multiple generations, 60 or 70 of which could be collapsed. That would mean eliminating 60 or 70 sets of trustees, 60 or 70 federal tax returns, state tax returns and legal fees, as well as tremendous accounting and bookkeeping work. Such collapsing strategies also allow clients to have access to higher caliber investments at lower costs with less volatility and greater alpha.

Advisers offering trust monitoring and management services are on the leading edge. Handler identifies the service component as an actual trend in the marketplace, not just an extra service. "Whether there is

standing the trust documents, something few trust owners have done, should come next. Then, have tax or legal advisers prepare a summary of the trust document to clarify for both adviser and client the intent of the trust to enhance the lives of beneficiaries. This step allows advisers to connect immediately with other members of the advisory team. Advisers should then determine the level of service they are willing to provide and the role(s) they are willing to assume.

Some advisers assume the dual roles of trustee and investment adviser. Jon Carroll, MBA, CPA, a co-founder and managing director of Family Office Metrics LLC (www.fametrics.com), makes an important distinction between the two roles. "You have a role as a trustee that is completely different from your role as an investment adviser. If you're going to do these things in tandem, you need to look at this functionally and think about it in a way that is complete unto itself."

The trust management and monitoring function offers clients a second opinion on what other trust advisers are doing, allowing the adviser to build a higher level of confidence with clients through coordination of the entire advisory team. Every aspect of

ADVISERS OFFERING TRUST MONITORING AND MANAGEMENT SERVICES ARE ON THE LEADING EDGE



one trust or multiple trusts, it allows you to do your job better, to have a better perspective on the family's circumstances, and to have a much better chance of picking up more assets under management since you know where they all are and what's going on."

To connect with individuals and families needing trust oversight services, advisers must first be able to spot the opportunity. They should discover which of their existing clients have trusts; reading and under-

standing the trust documents, something few trust owners have done, should come next. Then, have tax or legal advisers prepare a summary of the trust document to clarify for both adviser and client the intent of the trust to enhance the lives of beneficiaries.

Investment advisers also should educate themselves about trusts and fiduciary responsibility before offering monitoring and management services. Knowledge of the CFP curriculum as well as the AIF (Accredited Investment Fiduciary) program offered by the Center for Fiduciary Studies can help advisers manage these liabilities.

They should also become familiar with the various types of trusts. According to Carol Pepper, president of Pepper International in New York, "There are so many different kinds of trusts, it's like saying the word "European." You don't know what country the person's from, what language

the person speaks, or whether she's in a warm or cold place! It's a very broad term."

Staying abreast of regulatory changes such as those enacted by the two Uniform Prudent Investor Acts (UPIAs) in 1994 and 1997 is also essential. Trusts are governed first by the trust documents themselves, then by the state in which the trust is domiciled, and finally by regulations used by the Office of the Comptroller of the Currency (OCC) to manage national banks. To guide advisers and multifamily offices (MFOs) providing trust monitoring and management and other family-office services, Tom Livergood, CEO of Chicago-based Family Wealth Alliance LLC, recently published a list of MFO standards for best practices in coordination, oversight, and outsourcing. Most clients have no idea about such regulations and best practices; therefore, they have no way to know when they are not being fulfilled. And what they don't know can definitely hurt them

A case in point, according to Carroll, may be a trust holding a piece of property. "Trustees essentially hold title to the assets held in trust so, for example, if some type of environmental issue arises with property held in the trust that was previously unknown, it doesn't matter. The trust could be sued as the property owner by local authorities or by someone who purchased some subdivided part of it from the trust. The liability is very real."

To make sure advisers are covering all the bases of trust monitoring and management services, a well-laid-out process should be followed. A Trustee Support Process chart Carroll's firm created guards against any aspect of trust monitoring and management falling through the cracks. The process chart facilitates documentation of everything from initial acceptance and setup of the trust to the role of liaison between trustee, beneficiaries, and the entire team of advisers, and it automatically provides a structure for review and reporting results to the family or trust owners.

Most trust services can be outsourced. If the adviser is also trustee, Hughes says,

EDUCATIONAL RESOURCES FOR ADVISERS

- UPIA 1994, www.law.upenn.edu/bll/ulc/fnact99/1990s/upia94.htm
- UPIA 1997, [//www.law.upenn.edu/bll/ulc/upaia/upaia97.htm](http://www.law.upenn.edu/bll/ulc/upaia/upaia97.htm)
- *Prudent Investment Practices*, handbook, Center for Fiduciary Studies, www.cfstudies.com
- *The New Fiduciary Standard* by Timothy Hatton, CFP, CIMA, AIF; www.fiduciary.store.com
- *Investing and Managing Trusts Under the New Prudent Investor Rule* by John Train and Thomas A. Melfe, www.amazon.com
- *Family Wealth Alliance MFO Standards*, www.fwalliance.com/TheAllianceMFOStandards.pdf
- *Family Wealth: Keeping It in the Family* by James E. Hughes, Jr. (Bloomberg Press, 2004)

distribution should remain in-house, explaining that the manner in which distribution is qualitatively managed to enhance the lives of beneficiaries is where the "rubber meets the road." Pepper says the need for outsourced experts depends on how the trust document is written, the kinds of assets in the trust, and the requirements the trustees must fulfill based on the duties set forth in the trust.

Fees may overlap with existing investment management services such as custody and analytics. Folding in trust monitoring and management services may expand those fees and add others. But advisers may be able to streamline fees, depending on the outsourced providers used. For example, fees for analytics may be based upon the complexity of the portfolio and the service level desired. Firms specializing in trust administration offer lower fees as a result of economies of scale, according to Pepper. She says requesting quotes from two or three reputable providers will yield a range of appropriate fees for a particular situation. Such fees are usually folded into the existing fee structure or are based on a percentage of the family's entire portfolio of assets.

Fees can be negotiated on an unbundled basis, then rebundled to include all services provided. Perhaps a client pays 2 basis points for overall portfolio administration, custody, and analytics and 5 basis points for trust administration, which includes ev-

erything except the investment management. Add in the investment management and perhaps the total comes to 12.5 basis points. Within investment management, clients want to know what they're paying for every service, including asset allocation and managing the managers, so an apples to apples comparison can be made among providers.

Web technology provides a cost-effective way to support trust communication, monitoring, and management services between the advisory team and the client. External advisers can be given permission to access the client's Website to perform their duties; the trusted adviser may have broader access and may be included in select family meetings. Most outsourced providers offer better software for their respective functions than advisers would be able to purchase, eliminating the need for advisers to make significant technology investments.

Ultimately, advisers must be willing to provide the service level required for trust monitoring and management. According to Handler, "To the extent these advisers are paying attention to what's happening in the wealth marketplace and how it all ties together, they'll be able to offer better advice, more relevant advice, and to create more value."

LISA GRAY [lisa@graymatterstrategiesllc.com] writes extensively on family office and wealth management topics and has 17 years' wealth management industry experience.