



## Choosing a Trustee Checklist

Choosing the suitable trustee(s), and the appropriate mechanism for naming successor trustees over time, is a key decision for anyone creating a trust. Fiduciary responsibilities include investing and monitoring the trust's money, ascertaining that tax forms and other documentation are filed, and making distributions to beneficiaries according to the grantor's established distribution schedule.

When deciding on naming trustee(s), you should give consideration to the following questions and insights and choose "YES" or "NO:"

**Yes**   **No**

\_\_\_ \_\_\_     **1. Does the trustee understand my family history?** Gauge whether the prospective trustee may objectively carry out the duties. The trustee(s) will have to treat all of your beneficiaries impartially, which is why professional trustees or having co-trustee(s) may be worthwhile options for families with complicated or strained relationships.

\_\_\_ \_\_\_     **2. Does the trustee have the skills required to fulfill the obligations?** Be certain to select prudent and accessible trustee(s), who can carry out the provisions of your trust and manage investment, tax, accounting, legal, and interpersonal issues that arise. Make sure you choose impartial trustee(s), who is flexible and sensitive to both your family's aspirations and changing needs of trusts.

\_\_\_ \_\_\_     **3. Can the trustee provide loyalty and avoid conflicts of interest?** The trustee's primary duty is to act in the best interests of the trust's beneficiaries, which may mean resolving external claims. This may be difficult, as in the case of a claim from a disinherited child, who may feel morally entitled to certain trust assets.

\_\_\_ \_\_\_     **4. Does the trustee have a solid track record managing investments?** Has the trustee ever been sued in a trust or investment-related lawsuit? Most fundamentally, this means that the trustee must ensure that the trust assets are managed in a way that is appropriate for the long-term needs of the beneficiaries, many of whom may be young children. To this effect, the trustee has a duty to make the trust's assets productive, as assets need to produce earnings, appreciate, or in some other way benefit the trust's current and future beneficiaries.

\_\_\_ \_\_\_     **5. Are you keeping beneficiaries reasonably informed about the trust and administration?** The trustee's duty may mean balancing the requirement to know against rights of privacy, such as in the case of delicate health care decisions. In addition, the terms of some trusts and some state laws mandate that the trustee provide some level of accounting to some or all the beneficiaries. Generally, the trustee must notify the beneficiaries of a trust when certain important events occur, such as a revocable trust's becoming irrevocable, a change of trustee, or a change of trustee fees. Failure to carry out these duties can result in serious ramifications.



\_\_\_ \_\_\_ **6. Do you know your options?** You may have a family member, friend or business associate serve as trustee. Alternatively, you could name a professional trustee, like a trust company, financial advisor, bank, or other objective professional to serve as trustee. Some families opt to have it both ways and use co-trustees, typically a family member and a professional trustee, who share responsibilities and serve as a check and balance to each other.

\_\_\_ \_\_\_ **7. Are you aware of the advantages and risks of a corporate trustee?** A corporate trustee brings experience, objectivity, and professional resources to help ensure that the trust is administered according to the terms of the trust. A corporate trustee can also help maintain family harmony by taking sole responsibility for all distributions. Conversely, the choice of a corporate trustee presents risks, such as the concerns involved in entrusting a corporate entity with permanent powers over the management of your assets. It is possible for the trust's beneficiaries to substitute a more sensible trustee, if stipulated by the trust document.

\_\_\_ \_\_\_ **8. Have you accounted for how long you expect the trust to last?** Trusts that benefit more than a few generations may be better suited for the continued stewardship of a corporate trustee. A non-corporate trustee (i.e. family member or another person) is unlikely to have the longevity to manage the specific needs of beneficiaries spanning over three generations.

\_\_\_ \_\_\_ **9. How much does the trustee cost?** Professional trustees ordinarily get paid a percentage of assets managed, which may make them cost prohibitive for smaller (less than \$250,000) trusts. Personal trustees may be entitled to compensation for their services; though, many waive the right to payment. In general, what's reasonable depends on the work involved, the amount of funds in the trust, other expenses paid out by the trust, the professional experience of the trustee, and the overall expenses for administering the trust.

\_\_\_ \_\_\_ **10. Do you understand the costs of services provided by corporate trustees?** Most corporate trustees operate under a standard fee schedule that outlines the services they will perform and the charges for those services. Trustees may charge a separate fee for trust administration, recordkeeping, and investment management, or they may bundle their standard fee together. Be mindful of corporate trustee services that are considered extraordinary. For example, the management of real estate may be charged for separately and in addition to the standard fees.

\_\_\_ \_\_\_ **11. Have you incorporated language in trust that enables you or your heirs to change trustees, if needed?** Some trust creators designate "trust protectors," who generally have power to fire and hire trustee(s).

\_\_\_ \_\_\_ **12. Do you have a way to deal with conflicts that may arise among family members or even co-trustees?** Include a mechanism to mediate or arbitrate disputes.

**PLEASE GIVE US A CALL IF YOU WOULD LIKE TO DISCUSS THIS ISSUE IN FURTHER DETAIL.**