



PRIVATE TRUST GROUP OF AMERICA

A Strategic Resourcing Partner for Wealth Management Professionals

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Sharing Ideas ~ Building RelationshipsSM

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Change is the incubator for success. We can embrace change and be energized by the opportunity, or we can shy away from it and become paralyzed by inaction.

Topics of Discussion

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An Overlooked Opportunity: Self-Directed IRAs and Non-Traditional Investments

The following excerpts were taken from a recent article written by Michael P. Scott, Vice President & National Sales Director for PENSICO Trust Company.

The last several years have proven challenging for the investment community. The dotcom implosions, acts of terrorism, and accounting scandals have taken their toll on retirement asset values. The aging Baby Boomer population is nervous, dreading the arrival of their quarterly account statements showing the continued downward spiral of their retirement funds.

For many in this age bracket the immediate goal is simply to recoup the significant losses experienced over the past few years, so that they can adequately maintain, in retirement, the lifestyle they have become accustomed to.

Looking for viable options, more

and more of these educated and street smart investors are taking control and seriously looking at real estate and private placements as alternative investments for their retirement funds.

Financial advisors should...consider incorporating these investment options into your asset allocation discussions. Call it a recovery strategy; show your sophisticated investors that this is simply another way of further diversifying their portfolio.

Financial advisors should not worry about the trend toward alternative asset investing – in fact, you should consider incorporating these investment options into your asset allocation discussions. Call it a recovery strategy; show your sophisticated investors that this is simply another way of further diversifying their portfolio.

More importantly, by incorporating Self-Directed IRAs into your wealth management ser-

vices, you will create a niche specialty that gives you a competitive edge.

Since the inception of IRAs in 1974, the IRS has allowed all Americans to invest their IRA funds, or 401(k) or other qualified retirement funds rolled into an IRA, in a wide variety of non-traditional investment types. In fact, while the IRS is specific in which types of investments are not allowed (e.g., collectibles and antiques, life insurance policies) all other investments are permitted by omission provided they do not involve self-dealing or other prohibited transactions (see IRC 4975).

Hence, these IRA funds are able to be invested in virtually any non-traded assets, including mortgages, private notes, private stock, start up businesses, raw land, commercial buildings, vacation rentals, multi-family

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Understanding the Role of a Trustee in the Investment Process

For centuries, the traditional role of a trustee has been to serve the interests of the settlor by faithfully carrying out his/her wishes in accordance with the underlying terms of the trust document. It is a position of immense trust that not only requires but demands that a trustee exercise strong, independent judgment in the exercise of those duties.

According to Professor Austin Wakeman Scott, widely regarded as the leading authority on the law of trusts, "The whole re-

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The recent surge in usage of "wealth management services" as a catchphrase for all things

financial is in danger of turning the traditional role of trustee on its head. Driven by investment returns in the 1990's that proved unsustainable, investment management became the single greatest threat to the trustee's traditional role as the independent guardian of the settlor's property. Consequently, trustees abdicated their responsibility "...for the management of the property thrown upon the trustee", and reached for higher investment returns.

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Understanding The Role of a Trustee in the Investment Process (Continued from page 1)

Despite having been ushered into the 21st century by the painful realities of a bear market that punished those who thought annual double-digit investment returns were the norm, there are undeniable signs that trustees are once again betting on the uncertainty of future investment returns at the expense of their independent judgment and at their legal peril. To paraphrase the famous words of George Santayana, “Those who have not learned the lessons of history are doomed to repeat them.”

A trustee’s role depends, first and foremost, on his/her/its familiarity with the settlor, the settlor’s family and the settlor’s intent as expressed in the trust document. Therefore, trustees should not be selected on the

basis of their investment or stock picking ability, but on the basis of their desire to serve as the settlor’s trusted advisor during his/her lifetime, and as a dedicated, unbiased overseer of the trust property and of sometimes varied and conflicting beneficial interests thereafter.

To be sure, one of a trustee’s central roles is to make certain that all of the trust property is managed properly. That does not mean, however, that the trust property must be managed directly by the trustee. In fact, unless the trustee has special expertise in managing certain property, or is considered a qualified professional based on independent standards of professional competence, it is essential, in most cases, that the trustee seek outside investment

management.

The real dilemma for trustees is whether to use their own internal investment resources or to engage the services of an independent investment manager. The answer should be obvious, but too many trustees have succumbed to the idea that they are, first and foremost, in the “wealth management” business and, secondly, in the business of providing trust services. In other words, sound judgment and unbiased oversight have given way to a perception of a conflict of interest, at best, and an outright breach of fiduciary responsibility, at worst.

What should a trustee do? It is difficult to wear the two hats of independent trustee and investment advisor without present-

ing at least the appearance of a conflict of interest. At the very least, the two functions should be physically separated from one another and independently managed.

Ideally, a trustee should not agree to serve in a fiduciary capacity unless he/she/it is willing to provide the settlor and his/her family with a reasonable selection of investment options, both from within and outside the organization. It is more important that the trustee manage the investment management process than selecting the underlying investments.

“Diligence is the mother of good fortune.”
- Cervantes -

An Overlooked Opportunity: Self-Directed IRAs and Non-Traditional Investments (Continued from page 1)

homes, as well as participation in LLCs and limited partnerships, just to name a few.

The process itself is simple: an individual opens a Self-Directed IRA account with a specialized custodian, transfers his or her

current IRA or rolls over 401(k) funds to the new Self-Directed account, and finally, directs the custodian to invest the funds into the asset he or she specifies.

After an administrative review

to determine if the asset can be administered, the custodian forwards the funds to purchase the asset, and the asset comes into the ownership of the individual’s IRA account.

For a copy of the complete

article, or to obtain more information about administering non-traditional assets in Self-Directed IRAs, please contact Mr. Scott at (603) 433-2626, or visit PENSICO’s website at: www.pensico.com.

Regulatory Issues



Red Tape, n.

The collection or sequence of forms and procedures required to gain bureaucratic approval for something, especially when oppressively complex and time-consuming. The origins of the term are obscure, but it alludes to the former practice of the British government tradition of binding documents in red cloth tape.

Regulation B

On March 8, 2005 the SEC announced that it was extending until September 30, 2005 the date for compliance with respect to proposed Regulation B, which mandates that banks comply with certain broker registration requirements contained in the Gramm-Leach-Bliley Act.

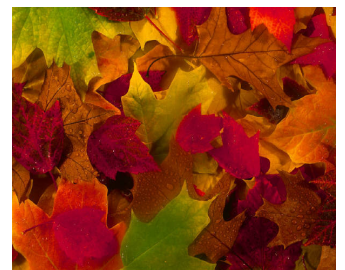
With final regulations still not published, and with September 30 rapidly approaching, we decided to place a call to the SEC’s Washington office to clarify the status of Regulation B, and to ask if the compliance

date would once again be extended.

We were fortunate, we thought, to connect with one of the staffers mentioned in an SEC release concerning a previous delay in implementing Regulation B. Our good fortune turned to disappointment as the answer to each and every question posed was a standard “I cannot comment on what the Commissioner may or may not do.”

In a recent Alert sent out by the ABA, banks were cautioned not to take any steps to come into

compliance with proposed Regulation B until the SEC issues final regulations. This seems like a reasonable thing to do for the time being, but please use caution – “PTG cannot comment on what the SEC may or may not do.”



Private Trust Group of America specializes in providing administrative and operational support to trust departments and wealth management offices nation wide. Our executive staff has over 100 years of combined trust and related technology experience, and our professional staff’s average experience exceeds 22 years. Please take a moment to review our website at www.privatetrustgroup.com for an overview of our services.