

# **COMPETITION FOR WEALTHY CLIENTS** has never been more intense, as wealth managers endeavor to enhance their traditional investment management services by offering more sophisticated investment, estate, financial, charitable and tax planning services to their best, most profitable customers.

In today's market, advisors who want to differentiate themselves may need to offer the services that have long been the province of bank trust departments and corporate trustees.

In this guide, we will take you step-by-step through the case for offering trust services, the capabilities that you'll add and the ways in which trust services can strengthen your practice. We'll help you compare and evaluate the legal structures and requirements of each state where trusts are domiciled.

In reviewing this guide, if you find that setting up your own trust company is too complicated, time consuming and capital-intensive, we will introduce a second alternative: the private label trust company that offers you all the capabilities you need without the hassle of establishing your own trust entity.

### **TABLE OF CONTENTS**

## TRUST CAPABILITIES CAN TAKE YOUR PRACTICE TO THE NEXT LEVEL

- Access to a growing HNW market
- A broad array of value added services
- The value of trust services in building your business

## TWO WAYS TO LAUNCH YOUR OWN TRUST COMPANY

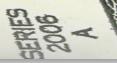
## OPTION #1: SETTING UP YOUR OWN TRUST COMPANY

- Overview of requirements
- Applying to become a trust company
- Choosing the right state
- A cumbersome process

### **OPTION #2: PRIVATE LABEL TRUST SERVICES**

- Understanding private label trust companies
- Advantages over in-house trust capabilities
- Choosing the right provider
- What to expect when you add these services





## TRUST CAPABILITIES CAN TAKE YOUR PRACTICE TO THE NEXT LEVEL

Trust services are becoming increasingly popular among the wealthiest families and individuals because they control the disposition of assets to beneficiaries, assign a high level of fiduciary responsibility and ensure a solid structure for future safety and growth. If properly constructed, trusts can carry out asset disposition in a tax efficient way.

Trust companies act as trustees for their clients, serving as a fiduciary as they administer, manage and eventually transfer assets for their clients. Where broker dealers and registered investment advisors are required only to select suitable investments for their clients, trustees must make every decision in the best interests of their clients.

Trust companies also have the ability to structure wealth distribution in sophisticated ways, using a variety of trust vehicles, managing estate taxes, family business interests, charitable gifts and intergenerational planning.

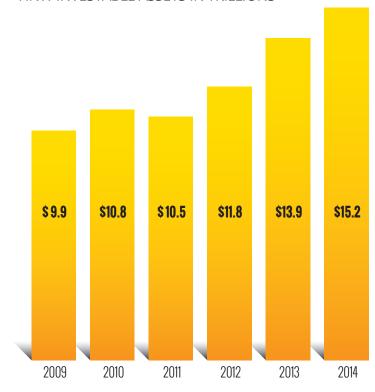
Trusts often contain complex dispositive provisions governing the most tax efficient (and beneficiary attentive) methods of transferring a broad variety of assets, including unique interests such as closely held businesses, family heirlooms, farm land, customized annuities or limited partnerships and different methods of charitable giving. Trusts can also contain language dealing with longer term intergenerational planning.

### **ACCESS A GROWING HIGH NET WORTH MARKET**

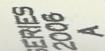
Adding trust services can increase your value to your most attractive clients and prospects, high net worth and ultra-high net worth individuals and families. This is a large and growing segment of the financial services marketplace, though an extremely competitive one.

### U.S. HIGH NET WORTH GROWTH 2009-2014

HNW INVESTABLE ASSETS IN TRILLIONS



SOURCE: THE UNITED STATES WEALTH REPORT, CAPGEMINI, 2015





Consider that there are now more than 10 million households in the United States with assets over \$1 million and more than 1 million households with net worth between \$5 and \$25 million<sup>1</sup>. The number of high net worth households has been increasing across all levels of wealth in recent years, given strong stock market returns and accelerating economic growth.

Just as important, many of these high net worth investors are entering a critical period for estate planning, the end of working life and the beginning of retirement. The baby boomer generation, representing roughly 20% of the American population is expected to have accumulated some \$20 trillion in retirement assets by 2020; according to recent analysis by LIMRA.<sup>2</sup> The transfer of those assets over the next several decades represents an enormous opportunity for financial advisors with sophisticated trust company services for estate and charitable planning.

It is also a risk for advisors who do not have the benefit of the asset 'stickiness' that comes with being able to offer trust services. That's especially critical as clients in the baby boomer generation begin to pass on and leave assets to family members. This massive asset transfer process typically entails a change in control and decision making. A recent survey in Financial Advisor Magazine found that 70% of widows had fired their advisors within a year of the husband's death.<sup>3</sup>

### A BROAD ARRAY OF VALUE-ADDED SERVICES

Trust companies are empowered by law to administer and manage assets on the behalf of someone else in the form of a trust. Trusts are governed by legal documents which define who the assets will benefit and how they are to be managed and ultimately distributed in the trustor's behalf. Trusts can be designed to fit many different circumstances and objectives, and by adding this capability to your practice you can offer a wide variety of services including:

<sup>&</sup>lt;sup>1</sup>Spectrem Group's Market Insights Report 2015, cited in Reuters http://www.reuters.com/article/2015/03/10/idUSnMKWvVv63a+1d0+MKW20150310

<sup>&</sup>lt;sup>2</sup> "Boomers will have \$22T in Retirement Assets by 2020," ThinkAdvisor, February 16, 2013. http://www.thinkadvisor.com/2013/02/06/boomers-will-have-22t-in-retirement-assets-by-2020

<sup>&</sup>lt;sup>3</sup>Financial Advisor Magazine (need better citation, this is from Steve's research, it looks like a Morningstar PPT.)



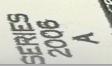
- **Charitable Funds Management.** Trust companies can support a wide range of charitable objectives via deferred gifts, donor advised funds, charitable trusts and the establishment of foundations and endowments. Trust companies work with many types of non profit organizations to design and implement investment guidelines for planned giving and donation programs.
- **Employee Benefit Plan Design and Management.** Trust companies can oversee the design, implementation and administration of tax-favored retirement plans for individuals, businesses and non profit organizations.

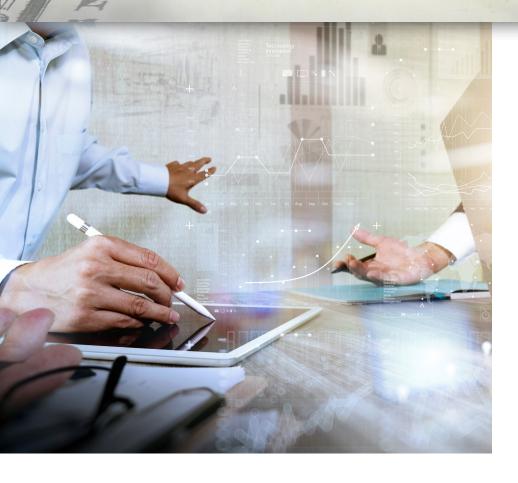
These plans may range from conventional and Roth IRAs for individuals to qualified retirement plans 401(k) and 403(b) plans for closely held businesses to specialized plans for the self-employed (SEP IRAs) and executives. Trust companies may be involved in many aspects of these plans, including selecting and monitoring investments, educating employees about available investment options, recordkeeping and tax reporting.

- **Investment Management.** Trust companies can formulate and carry out investment programs to ensure that the trust assets are allocated in accordance with client objectives and fiduciary principles. These services may be provided to individuals, corporations, charitable organizations and trusts.
- **Trust Administration.** These services include safekeeping and management of client assets. Trustees are responsible for carrying out the requirements of trust documents, as well as related services like paying bills, processing insurance claims, preparing and filing taxes, and managing farms, rentals and other property.

Trust companies also offer estate planning advice, mitigating estate tax through the use of irrevocable trusts to implement closely held corporate stock valuation 'freeze' plans and 'Crummey' trusts to remove life insurance proceeds from decedent estates. In addi-

TRUST COMPANIES CAN
OVERSEE THE DESIGN,
IMPLEMENTATION
AND ADMINISTRATION
OF TAX-FAVORED
RETIREMENT PLANS
FOR INDIVIDUALS AND
BUSINESSES.





tion, a trust company may act as a guardian of a minor's assets until adulthood or as conservator, managing the assets, paying the bills, etc. on behalf of disabled adults

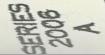
### HOW TRUST SERVICES BENEFIT YOUR PRACTICE

In an increasingly competitive environment, offering proprietary trust services can give you an edge with high net worth clients and prospects which differentiates you from other firms. Here are some of the key benefits.

**Control Accounts.** If you use an outside trust company for your clients, that trust company can replace you as asset manager at any time for any number of reasons

By adding proprietary trust services, either through your own trust company or a private label trust company by a third-party vendor, you can increase your ability to aquire and retain assets.

Of course, all trust companies, whether in-house or private label, have a fiduciary responsibility to screen and monitor asset managers for adherence to trust guidelines. However, with an in-house or private label trust, you can be designated as the asset manager in the trust documents, making it less likely to be replaced simply because the trustee has another favored provider. By retaining trust assets in your own trust company, you ensure that your clients have access to the full range of wealth management and trust services that you provide and they require.



- Address intergenerational planning. Trusts can help your clients extend and control their wealth not only to their immediate families but to succeeding generations. They provide a way for clients to use their wealth in the way they prefer, not just during their lifetimes but long after. With trust capability, you have an opportunity to retain management of family assets many years after your main client passes away.
- **Gain New Accounts.** Adding trust services to your platform enables you to serve a whole new group of clients clients with private retirement plans, charitable foundations and endowments and complex estate planning concerns and gain additional business from your current clients who have similar needs. When you help clients solve their most difficult wealth management challenges, you increase the likelihood of referrals from their friends and relatives with similar concerns and objectives.
- Reduce Trust Fees to Your Clients. Bank trust companies often charge your clients very high fees for their services. By prudently managing your own trust company, you can provide premium trust services at lower prices and save your clients substantial sums.
- **Enhance Your Credibility.** Having a trust capability transforms a wealth manager into an institution. It is a sign of stability and seriousness, and it signals that you are deeply committed to serving the needs of affluent clients for the long run. What better way is there to generate client confidence in your professionalism?

WHEN YOU HELP
CLIENTS SOLVE THEIR
MOST DIFFICULT
WEALTH MANAGEMENT
CHALLENGES, YOU
INCREASE THE
LIKELIHOOD OF REFERRALS TO THEIR FRIENDS
AND RELATIVES WITH
SIMILAR CONCERNS
AND OBJECTIVES.

### TWO WAYS TO LAUNCH YOUR **OWN TRUST SERVICES**

We have described the many benefits that financial advisors can realize by adding trust services to their capabilities — providing higher end services to wealthy clients, capturing additional assets with existing clients, gaining referrals to new high-end clients, and retaining client assets over time through generational transfers. In the next section, we will discuss two options for building trust capabilities into your practice: starting your own trust company and establishing a private label trust capability.

### **OPTION #1: SETTING UP YOUR OWN TRUST COMPANY**

If you'd like to offer trust services to your client, but do not want to give an outside institution control over their assets, you may want to consider starting your own trust company. Typically the new trust company would run alongside your wealth management business, offering trust administration services as your RIA continues managing the assets.

The first step is to retain a trust business attorney familiar with trust law to determine the governing state chartering procedures and regulations, including: capital requirements, corporate structure, key personnel, compliance capabilities. technology and infrastructure / office requirements. The attorney would also assist in completing the necessary documents, filing them with the state approving your trust charter. Filing fees range from \$1,000 to \$20,000, depending on the resident state. Legal costs can easily raise these expenses into the low six figures.

In addition, you will have to meet the capital requirements set by the state in which you are establishing the trust company. These can be substantial, ranging from several million (for a federally-chartered OCC trust company that may operate in all 50 states) to a more modest \$200,000 in South Dakota.

## More advisory firms seen starting trust companies

They seek to add revenue, differentiate themselves amid stiff competition

### By Charles Paikert

At a time when financial advisers are looking for every possible business advantage, opening a trust company appears to be an increasingly at-

At least six advisory firms around the country tractive option. have opened up trust companies so far this year, with at least that many more expected to open by want at least trial many more expected to open by yearend, according to Jerry Cooper, a relationship manager for Reno, Nev-based Garrison Institutional. The firm, which was launched last year, works with advisers who wish to start a trust

The benefits to opening up a trust company include "stickier" assets, additional revenue and a chance to differentiate a firm in a cutthroat mar-

ketplace, experts say. On the downside, advisers who start trust companies must confront 'a raft of unfamiliar legal responsibilities, more work and regulation, and the prospect of competing for business against the likes of giant banks and brokerage houses such as The Charles Schwab Corp. of San Francisco

Although there are no known statistics as to how many advisers own trust companies or how

### POPULAR STATES

Favorable trust laws and the absence of income taxes in Nevada and South Dakota have made those states popular places to incorporate trust companies, Mr. Cooper said.

But while Nevada's capital requirement for a new trust company is \$1 million, South Dakota's is just \$250,000, though that is likely to be raised this year or next, according to Roger Novotny, the director of the state's Division of Banking in Pierre. "South Dakota has good estate laws, and they

want the business," said David Dunn, the manwant the business, said David Dunit, the man-aging director of Kingsbridge Private Wealth Management Inc. in Las Vegas, which is in the process of opening a trust company in South Dakota later this year or early next year.

Mr. Dunn, whose firm caters to a small num-

ber of very wealthy clients and has about \$100 million in assets, said that he decided to open a trust company after detecting a demand for the service in the marketplace.

"I have an ultra-high-net-worth client base, and my clients would like us to be their trusted professional and to make their life easier," he

"There are a lot of complex types of trusts and provisions being used now, and we're working with the first generation of people who have these instruments. I really see a need for someone to step in and do the heavy lifting for them,"

For Christopher Holtby, a partner in Midland Wealth Management Ltd. of Dallas, which has \$80 million in assets under advisement, the risk was worthwhile.

He and his partners opened Wealth Advisors Trust Co, Ltd., in Pierre in May and he said it has added to the value of the advisory firm.

"Anyone interested in buying the company will realize that if you are the corporate trustee for many of your clients, that is sticky money, Mr. Holtby said. "You now have continuity," he said. "If a client dies, it's easy for the successors to replace an adviser, but it's harder to replace the trust company."

However, competing with well-known banks and financial services institutions has been a marketing challenge, Mr. Holtby conceded.

"You need to get your name out there, and you're going up against companies with bigger names who people are familiar with,"he said. Advisers opening trust companies also face a

new set of compliance regulations, Mr. Carrai "There is a whole new area of law they have to become familiar with, and the trust business is

fairly complicated," he said. But as advisory and wealth management firms

get bigger, and new ones open up, launching a trust company "makes sense," Mr. Carrai said. "You can diversify revenue, but even more

A 200 A

In addition to these capital requirements, you will need to demonstrate that you have all the expertise necessary within your firm to support trust services. You may need to hire additional personnel experienced in trust administration and trust company management to meet the requirements. You will have to keep two separate sets of business accounting records for your trust and asset management business. It is also vital that you provide and maintain a separate trust accounting software platform for the trust accounts to be managed. Trust accounting software is costly, with annual expenses based either on a transactional basis or on assets under management, frequently running into the tens or even hundreds of thousands of dollars.

### APPLYING TO BECOME A TRUST COMPANY

The first decision is whether to file for a state charter, or for a national charter with the OCC (Office of the Comptroller of the Currency). OCC approvals for new trust companies have in recent years become quite rare and much more expensive than filing with a state.

- **Application**: Trust company application requirements vary by state but generally involve an extensive, comprehensive process. The application package itself is comprised of a number of documents that must be completed and signed by the applicant principals (typically with) the state Department of Banking.
- **Business plan:** A detailed business plan is filed with the formal application. This overarching plan includes the company mission statement; the mid and long-term asset, marketing and financial goals; a timeline for accomplishing each task and objective; a business model and structure, including all departments such as personnel, compliance, administration, investments; and an operational plan that details strategies, policies, assignments and responsibilities to the principals and other key employees.

## THE OPERATIONAL PLAN IS COMPRISED OF FIVE STRATEGIES:

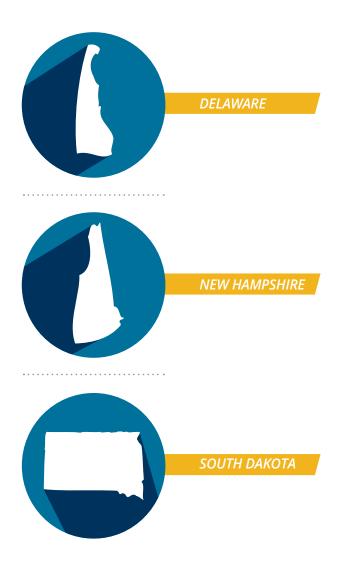
- THE MARKETING STRATEGY outlines and describes the marketing plans to be carried out, including timelines, sequencing, execution, advertising, newsletters, tracking and reporting.
- THE INVESTMENT STRATEGY provides detail about the investment philosophy, including asset allocation models or disciplines, investment selection and management policies of the investment advisor and procedures for managing and disclosing investment risks to clients.
- **THE COMPLIANCE STRATEGY** outlines and describes all legal, audit and trust regulatory requirements, including comprehensive written policies, detailing the ongoing oversight procedures to be carried out by the compliance personnel.
- THE INFORMATION TECHNOLOGY STRATEGY details all software and hardware systems to be employed for the trust business financials and for the real time trust accounting for individual trust portfolios (either on an in house basis or via a vendor relationship). This report should also include information regarding all trading procedures and platforms.
- THE CUSTOMER SERVICE STRATEGY outlines policies and procedures for trust administration, client communication, documentation and committee reviews by trust administrators.



- Personal Financial/History Questionnaire: The purpose of this questionnaire is to demonstrate financial stability and soundness of the principals. It is completed and signed by each principal, providing current financial statements along with recent historical financial information. The questionnaire is generally supported by tax returns, credit reports, and other financial records pertaining to the principals' personal background. Some states also require a child support form for each principal to certify that none of the principals is in arrears in child support payments in the proposed state jurisdiction.
- **Attorney's letter:** A letter from the proposed trust company's attorney addressing potential issues relating to the compliance of the proposed trust company with various state or federal laws or regulations may also be required.
- Interview: Once the application has been filed and reviewed by appropriate state authorities, the proposed trust company principals will generally be asked to participate in an interview. The interview is a helpful exercise for both the regulator and the applicant, since it provides an opportunity for the applicant to get acquainted with the banking regulator and other examiners who will be reviewing the ongoing trust company operations. Issues that might delay processing of the application can also be brought to light and expeditiously addressed.

### **CHOOSING THE RIGHT STATE**

Different states have dramatically different laws governing trust companies, the types of trusts permitted and how trusts are taxed and the capital requirements for each. The chart on page 11 shows the top tier (trust friendly) states, trust income tax treatment and how two popular types of trusts are governed. Note that all eight trust friendly states permit asset protection trusts and (in varying degrees) perpetual dynasty trusts, a popular tool for intergenerational transfers of wealth.



## THE BEST STATES FOR TRUSTS

TIER	STATE	STATE INCOME TAXES	ASSET PROTECTION TRUST	DYNASTY TRUST ABILITY	NUMBER OF TRUST COS.
1	ALASKA	No	Yes	1000 yrs.	3
1	DELAWARE	RESIDENTS	YES	PERPETUAL	32
1	NEVADA	NO	YES	365 YRS.	18
1	SOUTH DAKOTA	NO	YES	PERPETUAL	52
2	FLORIDA	NO	NO	360 YRS.	9
2	NEW HAMPSHIRE	RESIDENTS	YES	PERPETUAL	22
2	WYOMING	NO	YES	1000 YRS.	2
3	COLORADO	YES	YES	1000 YRS.	7

Establishing an independent, stand alone trust company can be an onerous, complicated and expensive undertaking, often requiring a substantial capital base (invested ultra conservatively) prior to charter approval.

A simpler alternative is a private label trust company containing all the attributes of an independent trust company. Private labeling outsources all fiduciary responsibility, administration, compliance, trust accounting, recordkeeping and tax reporting to a third party trust company.

To your clients, a private label trust company will look and feel like your own stand alone trust company (with the vendor outsourcing of fiduciary functions to a third party trust company not visible).

### **OPTION #2:** PRIVATE LABEL TRUST COMPANIES

As competition for high net worth and ultra-high net worth clients intensifies, advisors naturally want the competitive edge that trust services can provide. Yet many firms (especially small and mid-sized advisory firms) are not able to meet the high capital requirements or hire the specialized expertise that an in house trust capability demands. Private label trust companies offer an easier, more cost-effective alternative for these firms.

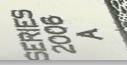
### UNDERSTANDING PRIVATE LABEL TRUST SERVICES

A private label trust capability allows advisors to outsource all the requirements of creating a trust company, including capital, information technology, specialized expertise and a state or national trust charter, to a third-party provider, while maintaining control of customer accounts and relationships.

To clients, private label trust capabilities make it look and feel as if their financial advisor has its own trust company. There is no interruption in custody, administration, management or trading.







TRUST LAWS VARY
FROM STATE TO STATE,
AND SOME TYPES OF
TRUSTS ARE PERMITTED IN ONE STATE BUT
NOT ANOTHER.

Yet through the private label relationship, the client has outsourced all fiduciary administration and liability, including trust reviews and interpretation, investing standards, suitability oversight, income and principal trust accounting, tax reporting and discretionary decision making as governed by the trust document.

### **CHOOSING THE RIGHT PROVIDER**

If you decide that a private label trust company is the right solution, you will want to make sure you choose a company that provides the services and pricing that fits your needs. Here are some factors to consider:

Where is the trust company domiciled? Trust laws vary from state to state, and some types of trusts are permitted in one state but not another. For instance, only a few states permit self-settled trusts, where the grantor is also a beneficiary, and many others restrict the duration of dynasty trusts. State tax treatment of trusts varies from state to state, as well, and there may be different rules regarding litigation of trusts. It is important to understand the particular regulations and trust law in the state of your trust company partner/provider. In some instances, trust documents can be drafted, designating any state as its preferred domicile, effectively adopting the trust laws of that particular state regardless of the location of your trust private label or your trust company partner.

How experienced is the company in managing private label trust companies? Private label trust companies are a relatively new development, but you will still want to make sure that your provider has been in the business for a number of years and has successfully served firms like yours. Ask if you can talk to other private label trust company clients to find out what their experience has been.

What resources has the firm dedicated to supporting its trust business? What are the trust partner's capital base and insurance coverages? Ask about the experience and skills of the key trust professionals. Determine what kind of software and IT support your provider uses to administer and oversee your clients' trust assets.

*Will you have to make changes your clients will notice?* A private label trust company should not require your clients to change custodians. The transition should be seamless for your clients.

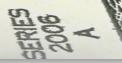
How does the provider help you protect your client relationships? While a third-party (private label offering) trust company has a fiduciary duty to make certain all investment and administrative decisions are made in the best interest of your clients, private label providers avoid conflicts that may interfere with your client relationships and the investment management of trust portfolios. Private label trust providers are focused only on delivering trust capability and administration, not investment management. They will not interfere with your client relationships and will often be able to specify your firm's name in trust documents as asset manager, which makes it harder to change to another asset manager.

What is the trust company's due diligence process? As a fiduciary, a private label trust company is responsible for reviewing your firm's investment process, philosophy, resources and experience. Meeting the (advisor/investment side) of regulatory fiduciary standards is imperative.

What are the fees involved? Most private label trust companies charge a one-time set up fee to establish a private label trust company. Individual trust accounts are typically charged an annual asset-based fee with a declining scale depending on asset size and the specific duties of each trust. Your advisory firm receives a dividend based on the trust fees and other revenue of the new private label trust business.



# S CONTRACTOR OF THE SECOND OF



### WHAT TO EXPECT WHEN YOU ADD PRIVATE LABEL TRUST SERVICES

The process of setting up a private label trust company is fairly streamlined and will take a fraction of the time that establishing an in-house trust company would require.

The trust company will first perform due diligence of your firm to make sure it has the people, processes and track record to provide high quality investment services. This stage of the process can typically be accomplished via a series of telephone or in-person conferences.

Following this screening and formal acceptance, a new corporate DBA (doing business as) entity is established. The name, branding and marketing of the new firm typically compliments your advisory firm. For instance,

if your firm is called John Smith Asset Management, the new DBA could be John Smith Fiduciary Services.

After the private label trust company is established, a data link with your firm's preferred custodian is set up with the trust company partner. The trust company becomes the underlying legal fiduciary, assuming all regulatory functions, responsibilities and liabilities. The advisor manages trust assets and controls the client relationship.

The private label trust provider reviews documents, accepts trusts (one by one) and administers the trusts (sometimes in conjunction with the advisor). The chart below shows a typical timeline for setting up trusts within your private label trust company.

### TIMELINE TO TRANSFER A TRUST



Counsel Trust reviews the trust documents (24-48 hours)



Counsel Trust accepts appointment as successor trustee or co-trustee



Directed trustee agreements and other administrative documents are executed



broker, bank or trading platform

Full trust accounting commences on SEI system

The current trustee is removed or resigns



Attorney amends the trust document (if needed).

Counsel establishes

a data link from
the preferred
custodian to SEI

