GREENLEAF® TRUST

Perspectives

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Wealth Management Industry Trends

Back in 2015, Bill Johnston, the Executive Council, and I met to develop our strategic goal for the next 10 years – Top of Mind in the state of Michigan. As we approach the end of those 10 years, I have put together a talented team of forward-thinking leaders at Greenleaf Trust to develop our strategic goal for the next 10 years. The process of strategic goal development involves both looking back in reflection as well as looking forward to emerging trends on the horizon.

As a team, we recently spent time discussing how the wealth management industry will evolve over the next 10 years and what we will need to do to adapt and continue to serve clients in the future. Of course, we started with the hottest topic right now - how will artificial intelligence (AI) impact the world? There is no question it will impact the wealth management industry. But, how and when? Will it actually replace people in our industry?

Although powerful, we are still in the early stages of generative AI development and there are imperfections. Mainly it is dependent on data quality, can be subject to biases, and doesn't yet understand human feelings and experiences. That will all change rapidly and there will be many useful applications for our industry. It may even be transformative over time. We foresee benefits more in internal operational activities and back-office efficiencies in our business over the next 10 years. Examples could include trade processing, account opening, file auditing, asset allocation compliance, etc. We still believe relationships matter in our business and holistic wealth management requires people that truly care about those they serve and the work they do. Without being hubristic, a full understanding of what a client's wants, needs, and desires are seems a long way off for a computer.

Another topic we spent focused time discussing was how to best serve the next generation of clients. Future clients will have different demands and needs. For example, their preferred method of communication will most likely be totally different than the preferred

Wealth Management Industry Trends, continued

method of current clients. If my boys who are in their late teens and early twenties (Generation Z) could delete the phone application from their iPhone, they would. So that means the digital experience we provide our clients with will most certainly need to evolve as well. Technology enhancements will need to elevate their access to information as well as diversify the interaction options with their Greenleaf Trust team.

"Changing demographics will require us to continue to diversify services offered to clients in order to continue to expand our value propositions to them."

We believe discussions on the evolution of our industry also need to include the topics of cybersecurity, diversification of services offered, and talent. With the increased use of technology and the evolution of our digital experience comes the increase of cyber threats. Cybersecurity risk is and will continue to be the greatest risk in our industry. Our commitment to data security will need to remain strong and evolve as the "bad actors" evolve. Changing demographics will require us to continue to diversify services offered to clients in order to continue to expand our value propositions to them. Our industry is also aging, there are fewer trust banks, and the number of college students graduating in a related wealth management field is declining.

I get excited when we look to the future of our industry and the evolution of our company. We have a commitment to continuous improvement, a contempt for hubris, and a proven record over the last 25 years of being agile and adaptable to changing client needs.

Nicholas A. Juhle, CFA®
Chief Investment Officer

Economic Commentary

After retreating 4% in April, the S&P 500 bounced back in May reaching a new record high on 5/21 and closing out the month with a 5% return. The bull market continues with gains in six of the last seven months contributing to a return of more than 11% year-to-date and more than 28% over the last year. Core bond prices recovered 1.2% as rates moved lower contributing to a modest year-to-date decline of 0.3%. The yield on U.S. ten-year Treasuries fell 19 bps after climbing 80 bps year-to-date through April.

One of the catalysts for recent positive stock and bond returns was the May 1 FOMC meeting. Last year, the monetary policy discussion shifted from the prospect of additional rate hikes to the timing and extent of potential rate cuts. However, both the "timing" and the "extent" have been the subject of much debate and evolving expectations.

After keeping interest rates unchanged since July 2023, policymakers at the Federal Reserve acknowledged for the first time in December that the

current policy rate range of 5.25%-5.50% was likely at-or-near peak levels for this tightening cycle. Entering 2024, investors were pricing in six 0.25% rate cuts by the end of the year with the first expected in March.

The prevailing view was that inflation would continue to lower, the economy would slow, and the Fed would be compelled to provide more accommodative policy rates. In the first quarter, it became evident that progress on inflation had stalled out, while the labor market remained more robust than anticipated, giving rise to the notion that rates would stay "higher for longer."

Investors begrudgingly revised their expectations, pricing fewer and fewer cuts as time passed. In March, investors were aligned with updated FOMC dot plots that showed expectations for three 0.25% rate cuts in 2024. Today, investors are pricing in just one to two cuts this year.

At the May 1 FOMC press conference, Chair Jerome Powell characterized the current stance of monetary policy as "restrictive", highlighting evidence that interest rates were weighing on housing and equipment investment. He reiterated that the prospect for cuts would be based on incoming data and stated that there are paths the economy could take that would lead the Fed to cut rates, specifically: progress on lowering inflation or unexpected weakness.

The FOMC has five more meetings in 2024. The next meeting is June 12. If the Fed is truly data-dependent, it behooves us to look at recent and upcoming data releases to anticipate messaging and policy actions at the meeting.

- The second estimate of Gross Domestic Product (GDP) was released on May 30 and showed a slight decline to 1.3% from the advance release which indicated 1.6% real growth (QoQ SAAR %).
- The April PCE price indices were released on May 31 and showed a 2.7% increase in prices – consistent with the March reading. Although the CPI index generates more headlines, the FOMC actually uses the PCE index when gauging its 2% inflation target.
- April job openings (JOLTS) will be released June 4. Job openings have declined from around 12 million in early 2022 to around 8.5 million as of March 2024. Declining job openings has given the FOMC confidence that a wage-price spiral is less likely to emerge.
- The May jobs report is due out on June 7. Consensus expectations call for 190K payroll additions and no change to the unemployment rate at 3.9%. If the report aligns with these expectations, it would be a near-repeat of April (+175K new jobs), which marked a steep deceleration from an average of 270K new jobs per month in the first quarter. We'll also be interested in wage growth data contained in the same release which tends to be a leading indicator for the path of inflation.

"Today, investors are pricing in just one to two cuts this year."

Economic Commentary, continued

- The May CPI report due on June 12 will provide insight into whether a softening labor market is impacting inflation. After falling sharply from a peak of 9.1%, year-over-year inflation figures have been range bound between 3% and 4% for the last year. A move outside of this range (in either direction) would certainly impact market expectations for the future path of interest rates.

The next FOMC meeting, which concludes on June 12 will offer an updated view into the Fed's calculus, incorporating the new information detailed above among other factors. While there is little chance that policymakers will adjust rates this month, we expect an update on the Fed's plans for quantitative tightening and the committee will deliver an updated summary of economic projections (SEP), which details forward expectations for GDP growth, inflation, and unemployment and includes an updated dot plot highlighting committee members expectations for the forward path of policy rates.

As always, we look forward to sharing our views as we navigate the balance of 2024, and we encourage investors to lean on discipline and the benefit of a long time horizon during periods of uncertainty. On behalf of the entire team, thank you for allowing us to serve on your behalf.

"...we encourage investors to lean on discipline and the benefit of a long time horizon during periods of uncertainty."

Beyond Bias: Navigating Financial Decisions with Kahneman's Prospect Theory

Kevin E. Jawahir, CTFA
Senior Vice President, Director of Personal Trust - Development

The world of behavioral economics lost a giant with the recent passing of Daniel Kahneman, whose groundbreaking work laid the foundation for understanding the human decision-making processes. Among his many contributions, prospect theory stands out as a pivotal concept that has reshaped how we perceive risk and make choices. In the realm of wealth management, where decisions can have monumental financial consequences, prospect theory's insights are invaluable.

Prospect theory acknowledges that human decision-making is at times irrational and influenced by psychological biases. It suggests that individuals evaluate potential gains and losses relative to a reference point, rather than in absolute terms. Key concepts such as loss aversion, framing effects, and the endowment effect reveal how psychological biases shape decision-making under uncertainty:

- **Loss Aversion** – One of the central tenets of prospect theory, loss aversion, highlights the asymmetry between the pain of losses and the pleasure of equivalent gains. Individuals tend to experience the psychological impact of losses more intensely than gains of equal magnitude. This aversion to losses can lead to risk-averse behavior, prompting individuals to prioritize the preservation of wealth over the pursuit of potential gains.
- **Framing Effects** – Kahneman's research on framing effects demonstrates how the presentation of information can significantly influence decision-making. The framing of choices – whether in terms of gains or losses, probabilities, or reference points – can alter perceptions of risk and reward. By framing decisions strategically, investors can overcome unconscious biases and make more intentional choices.
- **Endowment Effect** – The endowment effect suggests that individuals assign higher value to items they already possess compared to equivalent items they do not own. This bias can influence investment decisions, leading individuals to hold onto underperforming assets or irrationally favor investments simply because they are already part of their portfolio. Objective assessments and third-party advice can help investors overcome the endowment effect and optimize their portfolios.

In today's complex financial landscape, individuals and families are increasingly turning to independent wealth managers, like Greenleaf Trust, to navigate the intricacies of wealth management. Personalized services tailored to each investor's unique financial goals and circumstances is essential. Experts can help overcome decision making bias by providing:

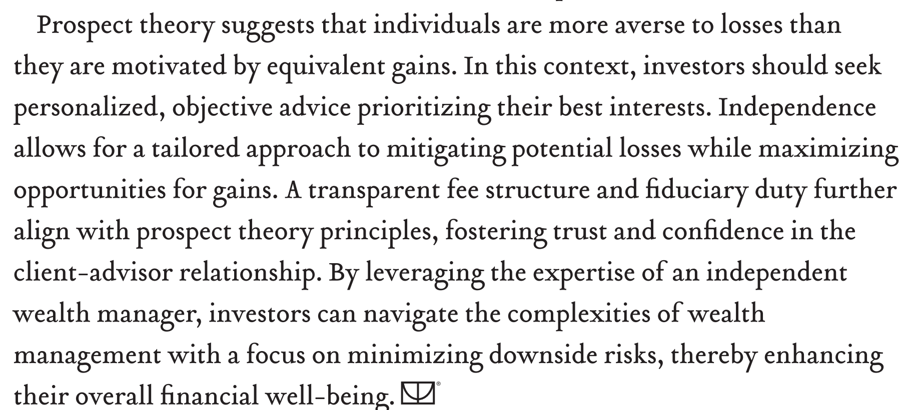
- **Objective Advice** – Seek providers that operate free from conflicts of interest and are not tied to specific products or companies. Advisors that serve as fiduciaries recommend solutions solely based on their clients' best interests. This objectivity fosters trust and ensures that recommendations are aligned with the client's financial goals.
- **Customized Solutions** – Every investor has distinct financial objectives and risk tolerances. This diversity requires personalized strategies to meet clients' needs based on their unique circumstances and aspirations.
- **Holistic Approach** – If money is the goal, there will never be enough. Taking a holistic view of wealth considers income, expenses, assets, liabilities, and long-term objectives, but it also acknowledges money is a means to an end. Clarifying the end goals whether they be lifestyle enhancement, multi-generational, or philanthropic allows investors to better understand their big picture and integrate all planning facets. A holistic approach ensures that decisions in one area do not negatively impact other aspects of an investor's financial well-being.

"Personalized services tailored to each investor's unique financial goals and circumstances is essential."

Beyond Bias: Navigating Financial Decisions with Kahneman's Prospect Theory, continued

- **Proactive Monitoring and Adjustments** – Financial markets are dynamic and ever-changing, requiring constant vigilance and adjustments to investment strategies. A proactive approach is required when making adjustments to asset allocations, investment selections, and risk management strategies to adapt to changing market conditions and optimize portfolio performance.
- **Team of Experts** – Collective wisdom of a group of professionals is often superior to any one individual's selective wisdom, so investors are often best served by a team of experts approach. A team approach ensures the best thinking across various domains of expertise while avoiding the jack-of-all-trades but master of none trap.

> "In this context, investors should seek personalized, objective advice prioritizing their best interests."



Prospect theory suggests that individuals are more averse to losses than they are motivated by equivalent gains. In this context, investors should seek personalized, objective advice prioritizing their best interests. Independence allows for a tailored approach to mitigating potential losses while maximizing opportunities for gains. A transparent fee structure and fiduciary duty further align with prospect theory principles, fostering trust and confidence in the client-advisor relationship. By leveraging the expertise of an independent wealth manager, investors can navigate the complexities of wealth management with a focus on minimizing downside risks, thereby enhancing their overall financial well-being.

Steve Davis, CFP®
Wealth Management Advisor

The Key to Long-Term Gains: Smart Asset Allocation Explained

Asset allocation is the primary driver of long-term investment performance. So, what exactly is asset allocation? It is simply the mix between major investment types in a portfolio, including equity (stocks), fixed income (bonds), cash, and alternative assets (basically a catch-all for everything else). The mix between those major asset types plays a large role in the amount of risk, or volatility, in a portfolio as well as the expected returns. Determining asset allocation is one of the first decisions you must make before investing in an account. Although there are some "cookie-cutter" approaches, such as 100 minus age = stock allocation, or sticking with a 60/40, finding the right mix takes more thoughtful consideration. In this article, I will discuss the factors that go into deciding your optimal asset allocation, and why it's appropriate to revisit the discussion on a regular basis.

Financial Goals

One of the first questions we ask when meeting with clients is: "What do you want your money to do for you?" It prompts individuals to think about what is truly important for them, such as enjoying a comfortable retirement, purchasing a home, paying off debt, or saving for their grandkid's college education. Having a conversation surrounding financial goals, both short and long-term, allows us to plan out a roadmap of how you will use your savings in the future. Goal-based investment planning means that your savings are growing for specific purposes and supporting future causes. Having clearly defined goals is the first step in building an asset allocation decision.

Risk Tolerance

Risk tolerance is another crucial component of determining asset allocation. This is simply defined as your comfort level with market volatility. While a 60% equity/40% fixed income portfolio has historically returned around 8% annually, every year will look different based on the current market and economic conditions. For example, in 2022, a 60/40 portfolio declined -13.5% alone, while in 2023, there was a recovery of +15.6%. Although market drawdowns are uncomfortable, it's important to understand if you can emotionally withstand a year like 2022 in order to benefit from a recovery just 12 months later. The worst thing that can happen is to sell your investments when the market has taken a tumble and remain in cash while a recovery takes place. Every investor wants desirable investment returns. However, the higher the expected return in the long-term, the higher the expected risk in the short term. Understanding your tolerance for risk is an important step in determining the right mix between higher risk and return assets, like stocks, and lower risk and return assets, like bonds and cash equivalents.

Time Horizon

Time horizon ties in with financial goals. It is simply when you need funds from your portfolio, rather than how you use the funds. For example, if you want to fully fund a 529 plan for your 5-year-old son, and you expect him to attend college at age 18, then your time horizon is 13 years. When it comes to retirement planning, a person in their 30s has a much longer time horizon than someone in their 60s for their retirement funds. A longer time horizon gives the portfolio an opportunity to recover from market drawdowns and benefit from the power of compounding, especially without the burden of withdrawals during challenging periods. Understanding your time horizon can help us orient the portfolio towards growth or income generation depending on the answer.

"Having a conversation surrounding financial goals, both short and long-term, allows us to plan out a roadmap of how you will use your savings in the future."

The Key to Long-Term Gains: Smart Asset Allocation Explained, continued

Risk Ability

Determining your ability to take risk ties in your goals as well as your time horizon. An example of an individual that has a high ability to take risk wants their portfolio to grow, has a long time horizon before retirement, and is not withdrawing from their portfolio. However, another individual who wants their portfolio to grow and is currently spending down their portfolio in retirement has a much lower ability to take risk. This is due to the demand on capital of the portfolio. In retirement, you may not have the ability to reduce portfolio distributions in the event of a large market drawdown. Regular portfolio distributions may be necessary for paying bills, insurance premiums, and other expenses. Even with a high-risk tolerance, your ability to take on risk may be limited by your time horizon or current needs.

Summary

Determining asset allocation involves a strong understanding of your goals, risk tolerance, time horizon, and risk ability. Over time, all of these different components will change. At least annually, it's important to review progress on your goals, determine if your emotional tolerance towards risk has changed, update your time horizon, and reevaluate your ability to take on investment risk. While the headlines in the newspaper should not dictate your optimal target asset allocation, the headlines in your life certainly will (e.g. loss of a job, death of a spouse, birth of a child, change in health, and so on). As advisors, we enjoy facilitating these conversations and asking meaningful and thought-provoking questions to help guide you in making investment decisions that fit your lifestyle.

" Over time, all of these different components will change."

Inflation Alters Perceptions: How Americans View the Economy and Retirement

Robenson Jean-Baptiste
Participant Services Coordinator

By many measures, the U.S. economy is thriving, unemployment is near historic lows, economic growth remains solid despite high interest rates, and the stock market continues to reach all-time highs. However, despite these strong economic indicators, many Americans feel negatively about the economy, citing inflation as their primary concern. These inflationary worries are also affecting how Americans view saving and planning for retirement. Recent surveys indicate that Americans now believe they

need more money to retire successfully compared to pre-COVID times. They increasingly feel they'll need to work longer or delay retirement and are saving less to accommodate current costs and necessities. In this article, I'll explore some bifurcations and trends that may be driving these sentiments.

Housing

Housing plays a significant role in the U.S. economy, not only in terms of its weight on GDP but also in its impact on individual net worth and financial stability. Homeowners, who can lock in housing costs with a 30-year mortgage, are much more insulated against shelter-related inflation. Housing and rental costs remain one of the stickier components in inflation readings, keeping overall inflation above expected levels. There also seems to be a correlation between long-term home ownership and sentiments towards retirement. A recent survey of older homeowners by Fannie Mae found that 72% of respondents felt confident they would have enough income during retirement. Additionally, very few (15%) would consider using equity in their home for extra income, and only 17% had plans to sell or had already sold their homes. "Respondents offered a compelling combination of emotional and financial reasons for remaining in their homes, including a 'love' of their home, comfort with the area, and that their 'home is, or almost is, paid off.'" Homeownership and the stability it offers seem to play heavily into retirement sentiment and success.

In contrast, the post-pandemic housing market has proven much more difficult for prospective homebuyers to navigate. Affordability has become a major challenge as buyers wait for relief in rates or home prices. Making matters worse, data from the National Association of Realtors shows the country had a 3.2-month supply of housing inventory in March, while five to six months would align more with a balanced market. This imbalance is captured in Fannie Mae's Home Purchase Sentiment Index (HPSI); as of April 2024, 79% of buyers cited it being a bad time to buy, while 67% of sellers thought it was a good time to sell. The troubled housing market feeds directly into the overall sentiment of economic participants struggling with higher rent costs and mortgages compared to pre-pandemic costs. This not only impacts their long-term potential to save for retirement but also means a larger share of homeowners may enter retirement with a mortgage. While 72% of surveyed older homeowners felt confident about having enough income during retirement, this percentage drops to 62% among those still carrying a mortgage.

Financial Hallucinations

Another trend I would describe as financial hallucinations is the significant disconnect between how average Americans on Main Street feel

"However, despite these strong economic indicators, many Americans feel negatively about the economy, citing inflation as their primary concern."

Inflation Alters Perceptions: How Americans View the Economy and Retirement, continued

compared to Wall Street, economists, and the media. A recent Guardian/Harris poll (May 2024) shows that 56% of respondents believe the U.S. is in a recession, despite GDP still growing; 49% believe the S&P 500 index is down for the year, although it is up 12% year-to-date; and 49% believe unemployment is at a 50-year high, whereas it is currently under 4% near all-time lows. This points to a problem of what sources of information are "trusted," as social media increasingly becomes a more relied-upon news source. Firsthand, I have spoken to retirement plan participants about different "concerns" arising from social media, such as the government changing the retirement age, the USD being replaced by digital currency, and Blackrock & Vanguard's ulterior agenda. The Guardian/Harris poll highlights how inflation significantly impacts everyday people, but also how that perception often overshadows reality. This points to a need for more financial literacy and more accessible financial guidance on managing current situations and understanding how decisions today may impact future outcomes.

"The troubled housing market feeds directly into the overall sentiment of economic participants struggling with higher rent costs and mortgages compared to pre-pandemic costs."

It is also important to remember that not all Americans are invested or participate in the stock market. Recent data shows 61% of Americans directly or indirectly (through mutual funds or retirement plans) own stock, meaning the remaining 39% have not benefited from the strong stock market returns over the last few years. This worsens the perception of a strong economy for those who don't own assets that can help outpace the rate of inflation. The barrier for entry can be higher for some than others; 21% of working Americans lack access to an employer retirement plan, which is the most commonly used investment vehicle. They can still access or invest via brokerage or IRA accounts, assuming they understand how and where to open those accounts and how to fund and manage investments from there. Beyond that, they need to afford to fund savings with a budget squeezed by both interest rates and higher prices. This scenario helps explain the disconnect between someone's current personal experience and the broader economy, and it also underscores their skepticism about the probability of a successful retirement.

Every economy is cyclical, typically cycling through negative and positive phases. While some economic measures could be better, the current economy is nowhere near bad. Like the economy, the various markets within it go through cycles; we happen to be in what could be described as a negative housing phase, and the same could be said about inflation. Some issues mentioned in this article have more emotional and psychological elements, but it is important for economic participants to stay focused on long-term goals. While this is easier said than done, we can use some of the positives of the economy to help combat negative feelings. For instance, unemployment remains at historic lows, and workers

who have access to retirement plans should ensure they are taking full advantage of those. For those saving for a home purchase who feel it is out of reach, using a high-yield savings account can provide access to some of the highest interest rates in years. There are still ways to come out positive in the long run, even in what feels like a negative economy.

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The Modern Trust

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A phrase commonly thrown around in estate planning literature is the use of a modern trust. Some states tout that they have modern trust statutes in order to attract trust business. What is meant by a modern trust is that it is a trust that is highly flexible to respond to future changes.

There is plenty of discussion these days with the need to build more flexibility into a trust, in order to respond to future changes and address uncertainty triggered by economic, political changes, or even the change in the health of beneficiaries. The perceived need for more flexibility in dealing with trusts is prompted by the increased use of dynasty type trusts that are intended to avoid federal estate and generation skipping transfer taxes for multiple generations while sheltering assets from creditor claims.

"What is meant by a modern trust is that it is a trust that is highly flexible to respond to future changes."

While responding to changes in tax laws is often offered as the need to build flexibility into a trust, there are plenty of other reasons why a trust may need to be adapted in future years to address: (i) asset protection; (ii) a beneficiary's divorce; (iii) unexpected beneficiary litigation; (iv) a beneficiary's change in health prompts the need to become eligible to access governmental benefits; (v) business succession changes; (vi) the preservation of legacy assets like collectibles or heirlooms; and (vii) to promote family values and governance responsibilities.

There are a variety of ways in which a modern trust can intentionally be made more flexible and modified to adapt to perceived changes either in the law or the trust beneficiaries' needs. Some of those provisions, or options,

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that should be considered in intentionally making a trust more flexible are the following.

1. Directed Trusts: It is possible for a trust to use a trust director (formerly called a trust protector) to direct the trustee about duties otherwise held by the trustee under the law. For example, a favorite investment advisor could be named as a trust director to direct the trustee to make specific investments held in the trust. A person or committee could be named as a trust director with respect to making distributions from the trust, thus directing the trustee when and to whom to make discretionary distributions. A trust director could also be given a power to veto any proposed distribution to a trust beneficiary by the trustee. Any number of duties or powers can be given to a trust director under the trust instrument, which then leaves the named trustee with only administrative responsibilities, e.g., filing tax returns, while taking directions from the trust director(s).

"There are periods though when interest rates are low so that a little distributable income is generated by the trust's assets."

2. Authorize Unique Investments: A trustee's investment responsibility is normally limited by the Uniform Prudent Investor act (UPIA) which carries the general duty to diversify trust assets unless the trust's purpose is better served without such diversification. However, there could be occasions when diversification in trust investments might not be the best course for a trust, e.g., low-cost basis assets are held in the trust and their sale would trigger a large capital gain, or a closely-held family business is held in trust. The trust instrument could relieve the trustee from having to follow the UPIA when it makes investments, authorizing the investment in alternative or private equity (illiquid) investments. Or the trust instrument could authorize a trust director to direct the trustee to invest in a manner that is not consistent with the UPIA.

3. Power to Convert: Some trust instruments direct the trustee to make distributions of trust income to the current trust beneficiary. Capital gains usually are not classified as trust income under fiduciary accounting principles. There are periods though when interest rates are low so that a little distributable income is generated by the trust's assets. Accordingly, the mandatory distribution of trust income to the current trust beneficiary may not be sufficient to fulfill the trust creator's purpose for the trust. The trustee could be given the power to convert the trust from a "pay all income" to a "pay a percentage of trust assets" type of trust. This percentage distribution directive is called a unitrust. Accordingly, instead of paying all trust income the trustee pays to the trust beneficiary 4% or 5% of the trust's assets for the year, usually this amount is determined on the last day of the prior calendar year. It is much easier to identify the amount that the current beneficiary will receive from the trust (which will include all the trust's income and some of the trust's principal) during

the year. A unitrust makes budgeting by the beneficiary much easier, while it minimizes the trustee's decision on how trust assets should be invested.

4. Change in Situs and Law: The trustee (or a trust director) can be given the power to change the situs and the law of trust to further its flexibility. A state other than the trust creator's residence might have more favorable laws, such as promoting dynasty-type trusts that can last for centuries all the while avoiding federal estate and generation skipping transfer taxes, and preserving wealth, or privacy, for the trust beneficiaries. For example, Michigan does not permit (yet, anyway) silent or quiet trust where a young adult trust beneficiary is not informed by the trustee of the trust's existence, its assets, or that person's beneficial interest until they reach a more mature age when they have more financial maturity, or they can better appreciate family values. Delaware permits a trustee to avoid having to provide a copy of the trust, or an accounting of the trust's assets, to a trust beneficiary for a defined period. Accordingly, a trustee might want to change the situs of a Michigan trust to Delaware in order to take advantage of Delaware's quiet trust laws.

5. Trust Modifications: Several provisions under Michigan's Trust Code authorize a probate court to modify the terms of a trust at the request of a trustee or a trust beneficiary, so long as the material purposes of the trust are not impaired. However, that judicial modification entails a trip to the probate court, the use of attorneys, and the probability that some trust provisions will be disclosed in a public court hearing. A modern trust might contain a nonjudicial settlement provision by which the trustee and the trust beneficiaries can agree to modify either the trust's administrative provisions (currently permitted under Michigan's laws) or the trust's dispositive provisions (not permitted under existing Michigan law) without the need to obtain judicial approval of the change to the trust. Other states permit seemingly unlimited modifications to a trust without a court becoming involved. A non-judicial settlement trust provision could save time, expense, and publicity by avoiding any probate court proceeding.

"Accordingly, a trustee might want to change the situs of a Michigan trust to Delaware in order to take advantage of Delaware's quiet trust laws."

6. Trust Decanting Powers: If the trustee possesses discretion to make distributions from the trust to its beneficiaries, the trustee could distribute trust assets to a new trust, created by the trustee, to effectively modify the terms of the old trust. This ability to transfer assets from an existing trust to a new trust created by the trustee is called the exercise of a decanting power. While Michigan has two separate decanting statutes that permit the trust assets to be decanted to a new trust either to change a trust's administrative provisions, or in more limited situations to change the beneficial interests in the new trust, there are statutory procedures that must be followed. It is possible for a trust instrument to confer on the

The Modern Trust, continued

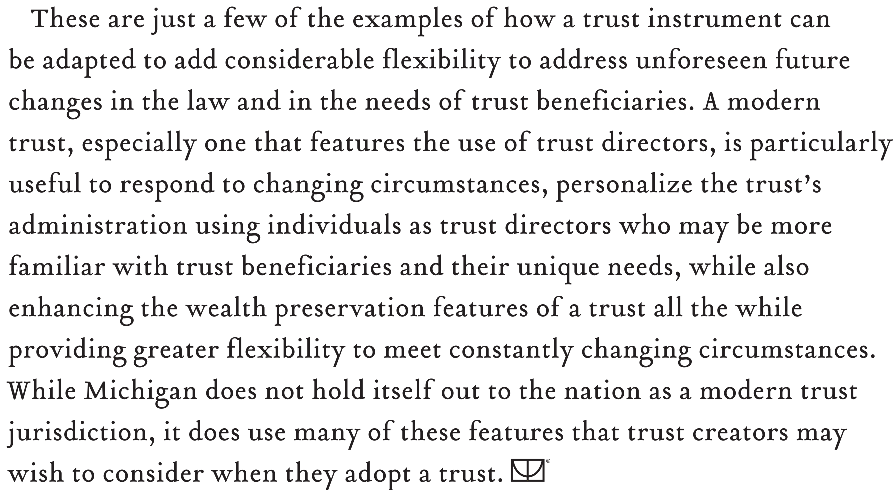
trustee (or a trust director) the power to decant trust assets, or to change the interests of a beneficiary, or to add trust beneficiaries, using the instrument's own, unique, decanting power, even without notice to the existing trust beneficiaries. For example, if a beneficiary who suffers from a drug addiction is scheduled under the trust instrument to possess the right to withdraw 50% of his or her share of the trust assets upon attaining the age 40, the trustee might decant the trust assets to a new trust where the trust beneficiary does not possess any withdrawal right.

7. Pets and Purpose Trusts: A pet is tangible personal property. Consequently, a trust that is established to maintain a pet after its owner's death is classified as a purpose trust. In Michigan a pet trust can last for roughly 21 years. In addition, the probate court can reduce the amount that the trust instrument directs to be set-aside to preserve the pet. Other states use far more favorable purpose trust statutes, where there is no living person as a beneficiary, but the trust's purpose can continue indefinitely to hold and protect assets. An example would be a purpose trust that is created to hold and preserve collectibles, artwork, vacation homes, or other family heirlooms. No living person is named as the designated beneficiary of the purpose trust. A trust director, like a family member, could be named to guide the trustee in how these trust assets are preserved, or made available for use by family members (who technically are not trust beneficiaries.)

"No living person is named as the designated beneficiary of the purpose trust. A trust director, like a family member, could be named to guide the trustee..."

8. Defining the Family: There is now considerable uncertainty as to who constitutes a family member, when terms like children, grandchildren, issue or descendants are used in a trust instrument. Historic definitions of these terms have not moved beyond family births and adoptions to surrogacy, in vitro fertilization, artificial insemination, or other evolving legal relationships, e.g., equitable adoption. Rather than rely on 'old time' concepts of family, heir, or descendant, a modern trust can specifically describe who the trust creator wants to be treated as part of the extended family, and thus a potential beneficiary of his or her trust.

9. Asset Protection Trusts: At common law, an individual could not create a trust with themselves named as a trust beneficiary and then use the trust's ownership of assets as a shield from the individual's creditors. About 19 states now, including Michigan, have changed that common law rule. Now, an individual can create an irrevocable trust, transfer assets to that trust, and be a discretionary beneficiary of the same trust. If done without any intent to defraud or hinder the collection efforts of a future creditor, the transferred assets to the trust are protected from future judgement creditors. Thus, those individuals who are in high risk professions, or who are concerned about becoming a target in our highly litigious society, can comfortably transfer assets to a domestic



asset protection trust, enjoy the benefits of those transferred assets, while protecting those assets from future creditor claims, including claims in a future divorce.

These are just a few of the examples of how a trust instrument can be adapted to add considerable flexibility to address unforeseen future changes in the law and in the needs of trust beneficiaries. A modern trust, especially one that features the use of trust directors, is particularly useful to respond to changing circumstances, personalize the trust's administration using individuals as trust directors who may be more familiar with trust beneficiaries and their unique needs, while also enhancing the wealth preservation features of a trust all the while providing greater flexibility to meet constantly changing circumstances. While Michigan does not hold itself out to the nation as a modern trust jurisdiction, it does use many of these features that trust creators may wish to consider when they adopt a trust.

"These are just a few of the examples of how a trust instrument can be adapted to add considerable flexibility to address unforeseen future changes in the law and in the needs of trust beneficiaries."

Stock Market Pulse

Index	5/31/2024	Total Return Since 12/31/2023
S&P 1500	1,194.98	10.84%
Dow Jones Industrials	38,686.32	3.52%
NASDAQ	16,735.02	11.83%
S&P 500	5,277.51	11.30%
S&P 400	2,982.86	7.85%
S&P 600	1,329.65	1.57%
NYSE Composite	18,083.69	8.41%
Dow Jones Utilities	946.42	9.27%
Barclays Aggregate Bond	2,126.49	-1.64%

P/E Multiples	5/31/2024
S&P 1500	24.0x
Dow Jones Industrials	22.2x
NASDAQ	40.5x
S&P 500	24.6x
S&P 400	19.1x
S&P 600	17.1x

Key Rates

Fed Funds Rate	5.25% to 5.50%
T Bill 90 Days	5.31%
T Bond 30 Yr	4.65%
Prime Rate	8.50%

Current Valuations

Index	Aggregate	P/E	Div. Yield
S&P 1500	1,194.98	24.0x	1.39%
S&P 500	5,277.51	24.6x	1.36%
Dow Jones Industrials	38,686.32	22.2x	1.88%
Dow Jones Utilities	946.42	23.1x	3.78%

Spread Between 30 Year Government Yields and Market Dividend Yields: 3.26%

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