

# The role and responsibilities of a trustee

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**Bank of America Trust Services — helping you simplify your life, give lasting meaning to your wealth, and prepare for whatever the future may hold.**

Whether you're creating a trust as part of your own estate plan or serving as a trustee or executor for someone else, our focus is on what's important to you — your unique goals for today and the future. We are dedicated to providing the services that address your specific needs in the way that works best for you.

As the leading provider of personal trust services,<sup>1</sup> we are able to offer a broad array of specialized services through a nationwide network of local offices. It is all part of our commitment to providing an unmatched level of personal service and care to you and your family, wherever you may call home.

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Being appointed as trustee is often viewed as an honor and an indication of confidence in one's judgment and capabilities. But serving as trustee can be a time-consuming task — one that carries significant responsibilities. If you have been named as a trustee or need to select a trustee, it is important to understand what is involved and the ways in which Bank of America\* may be able to help you or your selected trustee.

## What are the responsibilities of a trustee?

A trustee takes legal ownership of the assets held by a trust and assumes fiduciary responsibility for managing those assets and carrying out the purposes of the trust. A trustee has a fiduciary duty to act in the best interests of both current and future beneficiaries of the trust and can be held personally liable for any breach of that duty.

The duties and responsibilities of a trustee normally fall into the following categories:

### **Administer the trust according to the terms of the trust document**

- Understand the intentions of the trust creator to the extent possible.
- Maintain all documents and create proper records and procedures for administering the trust.
- Collect all trust assets and properly transfer them into the name of the trust.
- Pursue any claims due to the trust and defend the trust property against any actions brought by a third party.
- Fully understand the terms and provisions of the trust document, including any discretion granted to the trustee, such as discretion regarding investment or distribution decisions.
- Make required or discretionary distributions to beneficiaries.
- Hold periodic meetings of the trustees if there are co-trustees.
- Distribute final assets to the beneficiaries when the trust terminates.

\* Trust and fiduciary services are provided by Bank of America, N.A., Member FDIC and wholly owned subsidiary of Bank of America Corporation (BoFA Corp.).

Investment products:

<b>Are Not FDIC Insured</b>	<b>Are Not Bank Guaranteed</b>	<b>May Lose Value</b>
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Please see back for additional important disclosure information.

## Prudently manage trust assets in alignment with investment objectives

- Discharge duties according to fiduciary standards:
  - Exercise care, skill and diligence that a prudent person acting in a like capacity and familiar with such matters would use to conduct his or her own affairs.
  - Diversify investments in accordance with modern portfolio theory and applicable state law to help minimize risk.
- Develop and document investment objectives for the management of trust assets, including identifying goals, performance objectives, targeted asset allocation, types of investments permitted (and prohibited), liquidity standards, and roles and responsibilities of any appointed parties. When determining the investment objective, the trustee needs to take into account the interests of all beneficiaries (current as well as future) and structure the portfolio accordingly.
- Manage any unique assets such as real estate or business interests.
- Conduct a periodic review of all trust assets to determine whether they are being managed according to the terms of the trust and investment objectives.

## Use and distribute trust assets for the purposes described in the trust

- Become familiar with each beneficiary's needs and circumstances.
- Act in the best interests of the trust beneficiaries; balance the needs of all beneficiaries, current and future.
- Regularly communicate with the beneficiaries and provide pertinent information.
- Consult the co-trustee(s) on significant trust matters.
- Seek professional assistance as needed.
- Monitor trust expenses to make sure they are appropriate and reasonable.

## Account for and report on trust assets; prepare the necessary tax and regulatory filings

- Keep complete, accurate and detailed records of all income collected, expenses, purchases, sales and other transactions of the trust.
- Separately account for principal and income balances as necessary.
- Maintain proper and adequate insurance on trust assets where appropriate.
- File periodic and final accountings as required by state law.
- File timely and accurate fiduciary income tax returns for the trust, where appropriate, and pay any applicable taxes.
- Provide regular statements and tax information to beneficiaries and others as required.

## Manage third-party professionals

In fulfilling the responsibilities, a trustee may appoint third parties to take on certain responsibilities such as management of specific types of assets or preparation of tax returns. When that is done, the trustee assumes additional responsibilities.

- Review the performance of appointees on an ongoing basis.
- Evaluate the fees for all services provided.

## How can Bank of America help?

As the nation's largest provider of personal trust services,<sup>1</sup> Bank of America brings a high level of skill, knowledge and experience in handling trusts, including managing investments and administering complex trusts. We can serve in a variety of different roles, enabling you to select the level of service that meets your needs.

## What makes a good trustee?

### Characteristics

- ✓ Honesty and trustworthiness
- ✓ Specific knowledge of estate planning; prudent investor concepts and guidelines; insurance, tax and trust law; and real estate
- ✓ Organizational, managerial and problem-solving skills
- ✓ Good human relations and communication skills
- ✓ Longevity

### Guiding principles

- ✓ Maintain confidentiality
- ✓ Remain loyal yet impartial
- ✓ Avoid conflicts of interest or any act of self-dealing
- ✓ Maintain solid documentation and policies
- ✓ Act prudently in fulfilling fiduciary responsibilities

## Service that addresses your specific needs

### Agent for trustee

At the discretion of the individual trustee, Bank of America provides:

- Discretionary investment management using open-architecture investment advisory programs with fiduciary oversight from Bank of America.
- Administration services including:
  - Tax preparation.
  - Valuations.
  - Distributions.
  - Principal and income reporting.

### Co-trustee

Bank of America serves as a co-trustee alongside one or more individual trustees and provides:

- An objective view.
- Perspective on fiduciary issues.
- Fiduciary investment management using open-architecture investment advisory programs.
- Trust administration services including required and discretionary distributions.

### Trustee or successor trustee

As trustee Bank of America:

- Provides fiduciary investment management using open-architecture investment advisory programs with fiduciary oversight from Bank of America.
- Provides comprehensive trust administration services.
- Makes required as well as discretionary distributions.
- Manages communications with beneficiaries.

### Regardless of the role in which Bank of America serves, it:

- Generally is held to higher standards of responsibility and judgment than individual fiduciaries.
- Has the necessary recordkeeping systems in place to manage information and report to beneficiaries, tax or other governmental authorities and the courts.
- Is independent, impartial and objective, making it easier to balance the potentially competing interests of current and future beneficiaries.
- Provides permanence and continuity—will not become ill or die, become embroiled in family conflicts, or tire of responsibilities.
- Monitors changes in applicable laws and trends in the trust and financial industries.
- Offers convenience and security.
- Has the ability to manage nonfinancial assets such as private company interests, investment real estate, oil and gas interests, timberland and farm and ranch land through its Specialty Asset Management group.

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Bank of America Trust Services works closely with your relationship manager—who knows you, your needs and your goals for your wealth. Together, we focus on your unique situation, helping you identify trust solutions that align with your priorities and integrate them into your overall estate and wealth management plans.

To find out more about the ways we can help you simplify your life and create lasting meaning for your wealth, reach out to your relationship manager.

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<sup>1</sup> Spectrem Group, “2018 Comprehensive Bank Trust Update,” November, 2018.

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