



FALL 2013



trust & investment
perspectives



Money and the Markets **by Willard N. Woolbert**

It has been over five years since what has been called the Great Recession began in 2008. The collapse of Lehman Brothers in September, passage of TARP (Targeted Asset Relief Program) and a market decline in October all blend together now as the single point of crisis we reached as the housing market collapse brought down many of the organizations and financial instruments that fueled its boom. We have in some ways moved on from that very difficult September and October. As investors we are pleased that the financial markets have not only recovered but reached new highs over the five years. We have been the beneficiary of the single most important action of the post-crisis era, the willingness of the Federal Reserve to provide almost unlimited liquidity to the markets. Short-term interest

rates are near zero; longer-term rates have risen recently but remain at half of their 2008 level. The U.S. equity market has surpassed its 2007 highs and in the case of larger capitalization stocks are at all-time highs. The economy returned to the pre-recession level more quickly, with real GDP having peaked at the end of 2007 returning there by the third quarter of 2011. Corporate profits did even better with after-tax profits reaching their 2006 high by the end of 2009.

What has not recovered so quickly has been employment and capital investment. In early 2007 the unemployment rate fell to 4.5%. By November of 2009 it had moved to 10%. While the rate has dropped to 7.2% it has not been a very healthy decline. The number of under-employed as well as those who have simply dropped from the work-force has risen and

as a consequence overstates the improvement since 2009. The Bureau of Labor Statistics tracks a measure of employment known as U6. This reflects those unemployed as well as those working less than a full time job either because hours were cut back or because they could not find full employment. Here the rate has come down from 17.1% at its peak in 2009 to a still elevated 13.6% in September. The unemployment rate is calculated using a measure of those seeking employment. For most of the past decade those seeking employment were roughly 66% of the working age population. That figure is now 63%. There are secular trends at work that have reduced this level, but these are gradual changes and the 3% drop by itself would explain most of the improvement in the base unemployment rate.

continued on page 4

Pennsylvania Trust Named Best Provider
by Legal Intelligencer

Pennsylvania Trust was recently awarded the bronze designation for trust companies in *The Legal Intelligencer's* fourth annual "Best of" poll, where readers cast votes for the best providers of products and services to the legal community. *The Legal Intelligencer* is the oldest law journal in the United States.





A Matter of Stewardship

The elementary school near our office in Radnor is hosting a Harvest Festival next week. Big orange pumpkins, cornstalks and hay bales, and friendly scarecrows frame the sign announcing the celebration. No doubt you have seen similar displays, as visible signs of fall arrive on the Main Line.

The real work of the harvest is happening across the United States, as farmers are hard at work bringing in the bounty from their fields. Over two million farms dot our rural landscape, the largest percentage owned by families or individuals. And for most of these farmers, the success or failure of their businesses comes down to the harvest, often subject to uncontrollable variables such as the weather. Like the age-old parable of the sower and the seed, farmers must practice good stewardship, caring for and conserving their resources throughout the year.

Stewardship is an ancient term with roots in commerce. In feudal England, stewards were charged with the prosperity of the estate, running the daily affairs for the master of the house. Successful stewardship, then and now, in the fields or in the financial marketplace, is

a result of intentional governance and responsibility. Over the past few months, we have watched stewardship gone awry being played out on the political stage as our government leaders wrangled over budgets and policy. The crisis-driven outcome is, once again, a short-term solution. Regardless of political affiliations, one cannot help but be disappointed in their inability to compromise. Was the price worth the point made?

Stewardship is an integral part of the fabric of Pennsylvania Trust. A number of years ago our Annual Message centered on this very theme of guardianship. It is with great pride that I say as the years have passed we have remained vigilant stewards of the resources entrusted to us, working diligently to improve. From portfolio management in volatile and variable markets to finding creative solutions to complex fiduciary issues, putting the interests of you, our valued clients, first, is a responsibility we embrace with passion and pride.

In this issue of the newsletter, Chief Fiduciary Officer, Leslie Bohner examines the question of trust portability as well as guidelines for ensuring that the language of your trust document has maximum

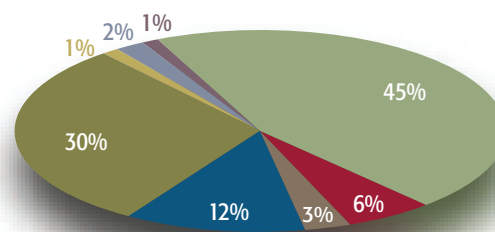
flexibility. Bill Woolbert, Pennsylvania Trust's Chief Investment Officer, reflects on the aftermath of the financial crisis of five years ago. I know you will find these articles both relevant and informative. Financial information as well as market commentary can always be found on our website, recently refreshed to include links such as daily market analysis and investment discussion via webinars. And of course, our staff of dedicated professionals is available to direct their skills and expertise toward helping you achieve your wealth management goals. I urge you to take advantage of the vast array of experience available.

Just like a farmer's crop yield, effective fiscal stewardship is tied to responsible care of resources. To quote a biblical phrase that has such wide reaching meaning it has become an idiomatic expression, "You reap what you sow." I have enormous respect for the hard work and devotion that is required for a successful harvest, no matter the season.

Richardson T. Merriman

Chairman and Chief Executive Officer

Balanced Asset Allocation

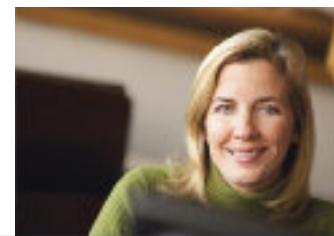


- Large Cap
- Fixed Income
- Mid Cap
- Gold
- Small Cap
- Cash
- International
- REIT

TRUST TALK

Is Your Trust “Portable”?

by Leslie Gillin Bohner, Esq.



We are often asked how to effectuate the resignation or removal of a current corporate trustee in favor of a successor trustee, such as Pennsylvania Trust. The ability to make such a change is called “portability.” State legislatures and courts are making progress on the issue of portability, making it easier for individual trustees and beneficiaries to work with the professional trustee of their choice. Below are some guidelines to help you analyze this important question.

Portability starts with the trust document. Does the document permit an individual, such as a co-trustee or beneficiary, to remove the current trustee and appoint a successor trustee? If yes, the easiest course is to have the designated individual inform the existing trustee of the removal decision and name of the successor trustee. This can typically be accomplished without going to court if all of the beneficiaries (including minor and unborn contingent beneficiaries whose interests can be represented by others) are willing to sign a nonjudicial settlement agreement that waives their right to a full court accounting and releases and indemnifies the outgoing trustee for its administration.

However, some trust documents, especially older ones, do not contain the necessary language empowering individuals to remove a corporate trustee. In these cases, state law controls. Under section 7710.1 of Pennsylvania’s version of the Uniform Trust Act (the “Act”), as long as a trustee change does not violate a material purpose of the trust, all beneficiaries and trustees of a trust may enter into a binding nonjudicial settlement agreement

with respect to any matter involving the trust, including the resignation or appointment of a trustee. If the current trustee agrees to resign, such resignation and appointment of a successor trustee, such as Pennsylvania Trust, as well as the waiver of accounting and release and indemnification of the resigning trustee, can all be accomplished with a nonjudicial settlement agreement signed by the current trustee and all beneficiaries.

But are you stuck with your trustee if the document lacks removal language and the current trustee declines to resign? Not necessarily. Under section 7740.1 of the Act, if the person who created the trust (the settlor) is still living, the settlor and all beneficiaries of the trust could modify the trust by using a nonjudicial settlement agreement that includes portability language and then remove the current trustee and appoint a successor trustee under the modified trust terms.

In many cases, however, the settlor is not living. If the settlor is deceased, the trust can only be modified upon consent of all of the beneficiaries and with court approval. The court must conclude that the modification is not inconsistent with a material purpose of the trust. The key question is whether the designation of a specific trustee is a “material purpose” of the trust that cannot be modified through the addition of portability language. The Pennsylvania Superior Court recently opined on this issue in the case of *In re McKinney*, 2013 Pa. Super 123 (Pa. Super. May 21, 2013). In that case, the trust beneficiaries sought to remove the corporate trustee under section 7766(b)(4) of the Act. Under that section, a court can

remove a trustee if removal best serves the interest of the beneficiaries, is not inconsistent with a material purpose of the trust, and there has been a “substantial change of circumstances.” 20 Pa. C.S. § 7766(b)(4). The corporate trustee argued that the designation of the trustee was a material purpose. The court disagreed, pointing out that the bank originally named by the settlors was no longer in business, and the current trustee was in place after a succession of mergers with none of the original personnel in place. The court stated: “There is no evidence that the settlors ever even contemplated [the current trustee] serving as trustee. When the chosen trustee no longer exists, the only material purpose that can be served through designating a trustee is that the trustee effectively administers the trusts. Where both the [individual] trustee and the proposed successor trustee are qualified to serve that purpose, we will not find that removal violates a material purpose of the trust.” *McKinney*, slip op at 22. Although the *McKinney* case had compelling and unique facts concerning the erosion of personalized service due to corporate mergers, the court’s thoughtful analysis can and will certainly be cited by beneficiaries in future removal cases.

The final remedy under section 7766(b) of the Act is an action to remove the current trustee for cause, i.e., “a serious breach of trust” or ineffective administration due to “persistent failures.” While this remedy is an option, the removal standard is quite high and the potential costs substantial.

The lesson to be learned? Include portability **continued on page 4**

continued from page 1

The other area struggling to recover has been investment, specifically gross private domestic investment. This is the money that builds facilities, buys equipment and builds houses. This measure peaked in 2006 and remains about 3% below that level today. The current stock of producing assets is depreciating at the same time. The positive judgment of this would be that gains in productivity have been able to make up the difference. The negative would be that corporations and individuals have been either unable or unwilling to commit to future projects.

What is important about employment and investment is that these are the factors that sustain an economic advance. We have had recovery as measured by the GDP and profits, but the factors that would sustain that recovery and turn it into growth

are lagging. Many suggest that it has been the political uncertainty of the past several years that has limited investment and employment. More likely to us is the economy's inability to fully absorb the excesses of the years leading up to 2008. Housing is a great example of this as is the level of investment in capacity outside of the U.S.

Regardless of the reason for the anemic performance of employment and investment, the failure of these measures to show an economy that is able to sustain itself will likely keep the Federal Reserve busy providing liquidity to the economy and the markets.

After setting the stage for a tapering of their bond purchases in May and June, the Fed balked at the implementation of the change at their September meeting. Reasons given for the reluctance included the disproportionate reaction of the bond

market to their May-June discussions and fear of the impact of a probable shut down of the government in October. Now, with employment and investment still lagging and the added impact of an economy suppressed by the shut-down, tapering is likely a spring 2014 event.

As has been the case over the five years since the beginning of the financial crisis, a sputtering economy will allow the liquidity provided by the Fed to support asset prices for the immediate future. Money moves markets. Ironically, it will likely be the Fed's reaction to better employment trends and a more vibrant economy that ultimately slows the equity market.

Mr. Woolbert is Senior Vice President and Chief Investment Officer at Pennsylvania Trust.

continued from page 3

language in your estate planning documents. Doing so ensures that you will have the ability to move the trust to the professional trustee of your choice without the delay and expense of a court

proceeding. Your Pennsylvania Trust administrator welcomes the opportunity to answer any questions you might have regarding the portability of an existing trust or the inclusion of portability language in your estate planning documents.

Leslie Gillin Bohner is Pennsylvania Trust's Chief Fiduciary Officer. She holds a J.D. and LL.M in Taxation from the Villanova University School of Law.



Leslie Bohner Discusses the Importance of Valuation in Estate Planning for Art for Freeman's

What is the value of a piece of art? In the Fall/Winter 2013 edition of *Freeman's International View*, Chief Fiduciary Officer Leslie Bohner discusses the necessity of proper valuation of art in the context of estate planning. Freeman's, based in Philadelphia, is widely recognized as a leading regional auction house, providing auctions and appraisals for over 200 years. Look for the article on our website, www.penntrust.com.

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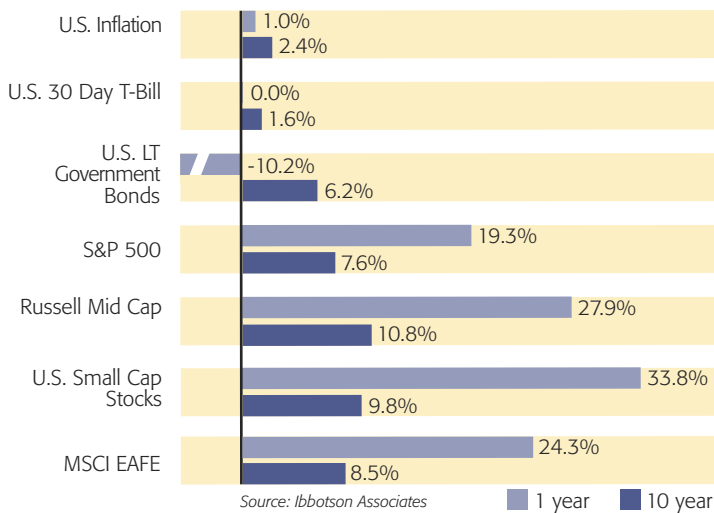
Pennsylvania Trust is committed to conduct all our relationships with integrity and to maintain the highest ethical standards; provide outstanding professional and personalized services; produce superior investment results consistent with client objectives; and retain exceptionally skilled individuals, empowering them with state-of-the-art technology.



Market Indicators

	Current	Three Months Ago	One Year Ago
Stock Indices	9/30/13	6/30/13	9/30/12
Dow Jones Industrial Average	15,130	14,909	13,437
Standard & Poor's	1,682	1,606	1,441
U.S. Treasury Yields			
2 Year	0.3%	0.4%	0.2%
5 Year	1.4%	1.4%	0.6%
10 Year	2.6%	2.5%	1.7%
30 Year	3.7%	3.5%	2.9%

ANNUALIZED RETURNS OF SELECT ASSET CLASSES



CORE LARGE CAP DIVERSIFICATION

In order to maintain a well diversified large cap common stock portfolio, we recommend the following relative sector weightings within the Standard & Poor's 500:

S&P 500 Sector Weightings	Pennsylvania Trust	
Consumer Discretionary	12.4%	+
Consumer Staples	11.2%	=
Energy	10.3%	-
Financials	15.7%	=
Health Care	12.5%	+
Industrials	10.3%	+
Information Technology	18.4%	-
Materials	3.4%	=
Telecommunication Services	2.6%	=
Utilities	3.2%	=

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