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Trust UPDATE

Citizens Bank

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On your own?

Rising rates of divorce among the 50+ set, plus the usual crop of widows and widowers, has resulted in an unexpected new phenomenon, the Pew Research Center reports. The rate of cohabitation for those over 50 shot up by 75% from 2007 to 2016, the biggest increase for any age group. "In 2016, 61% of adults ages 50 and older were married, compared with 64% in 1990," the report notes.

In its coverage of the report, in May the *New York Times*

interviewed some cohabiters to discern the reasons behind the phenomenon. Cohabitation no longer has the stigma it once had. It's an easy way to keep finances separate, because there's no responsibility for a partner's debt as there is for a spouse. Said one interviewee: "We don't make demands on each other's time. She has her life, I have my life, and we have our life together."

But neither do these folks want to live alone, for many reasons. Because couples monitor one another's health, cohabiters may fare better, physically and mentally, than those who live alone.

Someone nearby needs to have the power of attorney and the health care proxy, if one does not have reliable relatives for these duties. Most of all, cohabiters are in love, and enjoying companionship.

Still, the usual financial protections in the law that apply to married couples do

not cover cohabitants. Accordingly, it is even more important that wills and health care documents be attended to very carefully and deliberately, not taken for granted.

What about the singles?

Singles also do not have the luxury of deferring their financial planning. Single people need a Plan B, and having a Plan C might not hurt either. In particular, singles need to plan for incapacity. What happens to your finances if something happens to you, and you don't have a partner to step in?

Key documents

To empower someone to take over on your behalf, you will need to cover both the financial and health bases. You may need to execute:

- a health care power of attorney, with medical instructions to be followed if you are incapacitated;
- a Health Information Portability and Accountability Act (HIPAA) authorization, so that your agent

Continued on next page



- has full rights to your medical records;
- a health care proxy that may give someone decision-making power as you near the end of your life;
- a power of attorney over financial assets.

Powers of attorney can be tricky things. The traditional power of attorney conveys to the agent no more power than the principal has, which means that it expires when the principal becomes incapacitated. In the context of disability, the traditional power of attorney becomes useless when it is most needed. Therefore, the *durable power of attorney* was invented for this situation, a power that continues while the principal is not available. Another alternative is the *springing power of attorney*, which becomes effective only when the principal becomes disabled. That leaves open the question of how and when the presence of disability will be determined.

Unfortunately, the attorney-in-fact may face some roadblocks when trying to use the powers. In general, a power of attorney is most useful at the outset of disability. For long-term financial management, you need something more.

The living trust

A trust arrangement offers comprehensive protection that can last as long as it is needed.

You create the trust now. The trust agreement is *revocable*, meaning that you can make changes to it at any time, even cancelling the agreement if you see fit. Initially, the agreement may call for you to be consulted before investment decisions are implemented with regard

to the assets placed in the trust.

Our responsibility as trustee includes everyday investment chores—we buy and sell as you instruct us, collect dividends and interest income for you, and maintain accurate records of all transactions. We'll also keep you posted regarding important deadlines that affect your holdings.

When and if you become incapacitated, or upon your request, we will spring into action by taking over the full management of your assets, acting as you have directed in the agreement. In addition to handling your investments, our responsibility may be extremely wide-ranging. You may authorize us to use trust income to employ household help, hire nurses, and even pay your monthly bills.

The trust can be integrated into your overall estate planning as well. You can make provision for assets that have not been placed in trust during your lifetime to pour over into the trust at your death. You can fashion an agreement that allows you to distribute your assets as you wish at your death, taking tax considerations into account.

Can we tell you more?

Our job as corporate fiduciary is to develop investment and financial management plans for people in a great range of circumstances. We think creatively. We don't approach our clients with preconceived notions as to the best way to achieve their unique goals.

Everyone should explore the options and opportunities presented by our trust and investment services. If you have not done so already, we invite you to contact one of our officers soon to learn more. □



Good candidates for a living trust

Just one of these qualifications makes you an excellent candidate for a living trust:

- Worried about financial management upon illness or incapacity
- Family will need immediate access to assets after owner's death
- Owns substantial assets
- Wants financial privacy
- Owns assets in more than one state

Will and won't of the living trust

| A living trust <i>can</i> | But a living trust <i>won't</i> |
|---|--|
| Help manage your financial life in case you become ill or incapacitated | Reduce or avoid taxes |
| Transfer assets to your beneficiary | Affect jointly owned property or accounts payable to a beneficiary |
| Protect your privacy | Protect assets from creditors |
| Avoid probate | Make a will unnecessary |

How high can stocks go?

Bloomberg reports that in the middle of last year, U.S. private pension plans as a whole were about 75% fully funded, which is a healthy number. (For comparison, federal defined benefit pension plans are less than half funded, and state and local plans as a whole are about one-third funded.)

The strong stock market has lifted that funding level for private plans above 80%. Reaching 80% can sometimes be a tipping point for retirement plan managers. At that point they prefer to lock in assets to meet their long-term liabilities. That means buying more bonds. Long-term, high-grade corporate bonds may be favored for their higher yields.

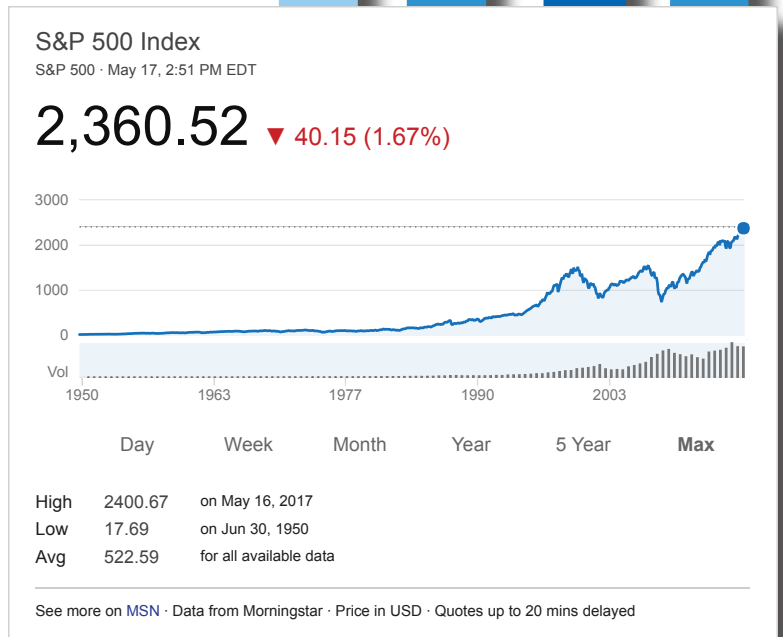
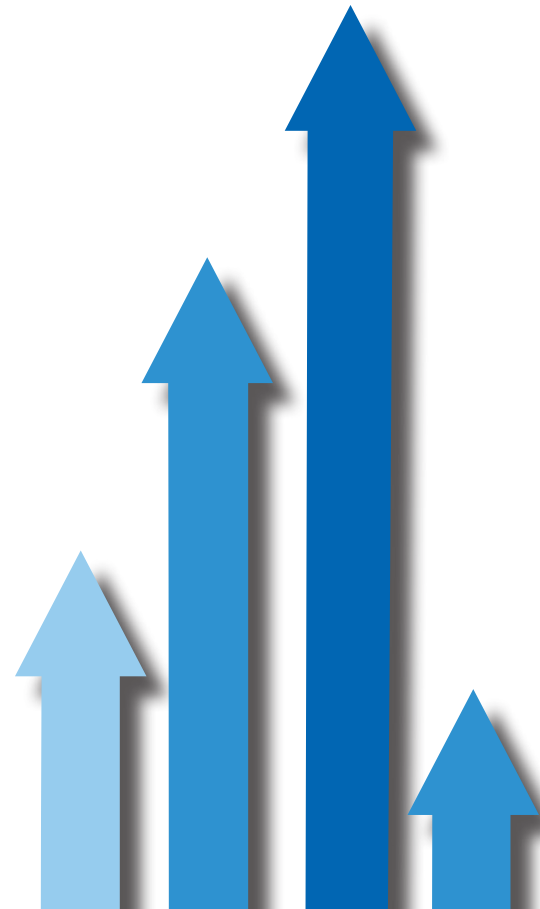
In a similar vein, individual investors who have targeted a specific asset allocation for their portfolios may find themselves overweighted to equities after a run-up in stock prices. Should they choose to rebalance to restore their risk parameters, they necessarily will be buying more bonds.

Observations of the bond market in the first quarter of this year are consistent with these theories. Highly rated U.S. companies issued \$414.5 billion in new debt in the first three months of the year, a record. Even companies with junk-bond ratings did well, with \$79.6 billion in new issues, according to *The Wall Street Journal*. That's double the level from the first quarter of 2016. There was no shortage of buyers for the new debt issues.

When prices outrun earnings

Another factor is that stock prices have been buoyed by a surge of investor optimism, not by improved performance of the companies themselves. The price/earnings ratio is a measure of how relatively expensive stock prices have become. Economist Robert Shiller has developed the CAPE ratio, a cyclically adjusted P/E measure that also takes inflation into account and smooths the results over a ten-year period. The CAPE ratio reached 29.19 in mid-May, well above historical averages. For context, it stood at 27.28 in 2007, before the “great recession,” and at 32.96 in 1929, before the Great Depression. However, the peak was 44.20 in 1999, just before the dot-com collapse.

Finally, the current economic expansion is almost nine years old, although admittedly it has been a period of painfully slow growth. Some may see the high CAPE ratios as harbingers of an overdue contraction. □



Noted

One word sums up our country's achievements: miraculous. From a standing start 240 years ago – a span of time less than triple my days on earth – Americans have combined human ingenuity, a market system, a tide of talented and ambitious immigrants, and the rule

of law to deliver abundance beyond any dreams of our forefathers.

You need not be an economist to understand how well our system has worked. Just look around you. See the 75 million owner-occupied homes, the bountiful farmland, the 260 million vehicles, the hyper-productive factories, the great

medical centers, the talent-filled universities, you name it – they all represent a net gain for Americans from the barren lands, primitive structures and meager output of 1776. Starting from scratch, America has amassed wealth totaling \$90 trillion.

—Warren Buffett, 2016 Letter to Shareholders

Bad advice from the IRS

According to the Government Accountability Office, in 2012 the IRS gave taxpayers correct information only 85% of the time. Here's another case to add to the 15% pile.

Nancy Rubel and her ex-husband filed joint tax returns in 2005 through 2008. For each year there was an unpaid tax liability. When spouses file jointly, each person is responsible for paying the entire tax bill. However, in certain cases there can be "innocent spouse relief." The couple must be separated or divorced, and the spouse seeking the relief must demonstrate his or her innocence in order to be excused from full liability. Nancy applied for this relief in 2015.

On January 4, 2016, the IRS denied Nancy's request for 2006 through 2008. On January 13, it denied the request for the 2005 tax year. The IRS advised Nancy that she had 90 days to appeal to the Tax Court to review this decision. Without looking at a calendar, by what day was Nancy required to submit her appeal to the Tax Court?

Nancy next sent additional information to the IRS to be considered. After reviewing it, the IRS again denied her request, and advised her that the new information did not extend her 90-day window for filing her Tax Court appeal. The letter stated: "Your time to petition the U.S. Tax Court began to run when we issued you our final determination on Jan. 04, 2016 and will end on Apr. 19, 2016." Nancy filed her appeal on April 19, per the IRS instruction.

But that was the wrong date. In fact, she had two due dates, April 4 (for tax years 2006-2008) and April 12 (for 2005), and she missed them both. The IRS pointed that out to Tax Court when it asked for Nancy's case to be dismissed.

Missing a deadline can be waived in some circumstances, or a time limit may be "tolled," depending upon the facts of a case. But the Tax Court ruled that it was powerless to hear Nancy's case at all. The 90-day limit for Tax Court appeals is found in that part of the Tax Code that creates "jurisdiction," which is the power to hear a case. A jurisdiction limitation may not be waived, no matter how egregious the circumstances.

Nancy took her case to the Third Circuit Court of Appeals, but that Court upheld the Tax Court's refusal to consider the case. "Rigid deadlines, such as those embodied in the tax law's jurisdictional requirements, promote predictability of the revenue stream, which is vital to the government," the Court stated. The fact that the IRS gave Nancy inaccurate advice in writing is unfortunate, but it does not change the law. □



*Why am
I a trust
customer?*

Once I heard about "fiduciary duty,"
I could settle for nothing less.
See one of our officers to learn more.

Trust Services

Executor and administrator of estates
Trustee under living trusts and wills
Trustee under pension,
profit sharing and 401(k) plans
Agent for executors,
administrators and trustees
Investment management and custody
IRA Rollovers

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