

Planning Matters

 **Leith Wheeler**
INVESTMENT COUNSEL LTD.

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Contributor:

Brad Chapman, BBA, LLB, MBA
In-House Counsel and Manager, Legal/
Compliance
Leith Wheeler Investment Counsel Ltd.



Editor:

Mike Wallberg, CFA, MJ
VP, Marketing & Communications
Leith Wheeler Investment Counsel Ltd.



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Who is Your Trusted Contact Person?

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In this edition of Planning Matters, we introduce the Trusted Contact Person, an ally to you and your portfolio manager, and someone who can help protect your interests.

As portfolio managers, we have more than the performance of your portfolio on our minds. We are in a fiduciary relationship with you, which means we will always act honestly, in good faith, and in your best interest. Our duty extends beyond just the risk/return issues of picking stocks and bonds: part of our duty is to help protect against threats to your money, including the possible effects of cognitive decline or financial exploitation.

The Role of a Trusted Contact Person

As strong as our client relationships may be, we are usually not in the best position to know how each person is doing day to day. More likely, others in a strong personal relationship with a client will have better insight into their personal well-being. More and more, the financial industry and government regulators recognize these people have a very important role to play in helping us to protect clients and their investments. At Leith Wheeler, we are beginning conversations with our clients about identifying a "Trusted Contact Person," someone

who can act as a sort of Emergency Contact for your portfolio manager.

If you name a Trusted Contact Person, that person cannot be told anything about your accounts or investments; your account information is kept completely private. The Trusted Contact Person also cannot make any decisions on your behalf, including authorizing transactions or any changes to your accounts. Rather, they help us to grasp the bigger picture of how you are doing and may be able to alert us to important personal issues that arise.

A Trusted Contact Person is an adult - typically a family member, close friend or caregiver - whom you trust and who ideally does not have an interest or a decision-making role in your account or assets. For example, it is best if a Trusted Contact Person is not your attorney under a Power of Attorney.

We would contact your Trusted Contact Person to confirm or make inquiries for the following reasons, among others:

- If we are unable to reach you for urgent matters or after an extended period of time.
- To determine your current contact information.
- To raise concerns about your mental capacity as it relates to financial decision making.
- To flag possible financial exploitation (or other forms of abuse) affecting you or your account.
- To confirm the identity of any legal guardian, executor, trustee or other personal or legal representative.

Research shows that 90% of Canadians support the idea of appointing a Trusted Contact Person to help protect their money, and we strongly support the concept. With regard to planning for all aspects of the future, we feel it is never too early to get started.

Why a Trusted Contact Person Matters

Vulnerability can affect a client of any age, take many forms, and can be temporary, sporadic or permanent in nature. It can arise from a number of factors, including a physical, cognitive or psychological limitation, or an illness or injury.

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Those over the age of 65 now represent one in six Canadians, and Statistics Canada projects that number to rise to one in five by 2024ⁱ. While most older clients are not vulnerable or unable to protect their interests, it is unfortunately the case that as some people age their capacity to manage their own affairs, declines. This is often due to the onset of dementia, but not always. (We covered strategies to plan for this possibility [here](#)). As people age they also tend to become more dependent on others, including family members, care givers, and advisors - a trend that is exacerbated over time by an accompanying decrease in social interactions.

Aging and capacity issues can also make someone more susceptible to financial exploitation, as elderly or vulnerable investors lose billions of dollars to frauds and scams every year. Even seniors with full mental capacity can be successfully targeted by scammers: a 2015 multi-year study found that 8.2% of older Canadians "had been subject to elder abuse or neglect in the past year and more than 5% specifically reported elder financial abuse"ⁱⁱ - and this figure excludes persons with mental capacity issues or those in long-term care facilities. So no one is entirely immune.

The dual risks of cognitive decline and financial exploitation put us as your Portfolio Manager in a very important and difficult

ⁱ Statistics Canada. "Canada's population estimates: age and sex, July 1, 2015" - in - Canadian Foundation for the Advancement of Investor Rights (FAIR Canada) & Canadian Centre for Elder Law. "Report on Vulnerable Investors: Elder Abuse, Financial Exploitation, undue Influence and Diminished Mental Capacity." November 2017.

ⁱⁱ National Initiative for the Care of the Elderly. "National Survey on the Mistreatment of Older Canadians." 2015 - in - Canadian Foundation for the Advancement of Investor Rights (FAIR Canada) & Canadian Centre for Elder Law. "Report on Vulnerable Investors: Elder Abuse, Financial Exploitation, undue Influence and Diminished Mental Capacity." November 2017.

position. To fulfill our fiduciary duty, we want to know about your financial circumstances, investing experience, investment objectives, risk tolerance and time horizon as possible, but we also want to know how you are doing physically and mentally. It is important that each client can understand the impact of financial decisions that they make and that we make on their behalf.

While we are not expected to be experts in the detection of cognitive decline, financial exploitation, or fraud, we are in a position to possibly spot the warning signs and step in to help. This is where a Trusted Contact Person can help.

Case Studies: Would a Trusted Person Be Able to Help Here?

In a joint report on elder abuseⁱⁱⁱ, authors Passmore and Watts published a series of case studies used to solicit feedback as part of their research. We have recreated a few of them below, edited for length, to provide some real-world examples of when a Trusted Contact could be a useful or necessary part of a robust long-term financial plan. Do any of these scenarios ring true for you or people you know?

The New Best Friend.

Mrs. Bernstein is a recently widowed, 86-year old woman who has become increasingly confused since a recent fall. Her new, younger friend, Brenda, starts helping with chores and later takes her to a lawyer to have a new Power of Attorney (POA) drawn up which allows her to make decisions on Mrs. Bernstein's behalf. Brenda instructs Mr. Singh, Mrs. Bernstein's investment advisor, to start selling off significant investments and cashing them out. Mr. Singh wants to confirm the instructions with Mrs. Bernstein, but Brenda doesn't answer her phone or other correspondence. Brenda insists she has a valid POA which is active right away, and that she is acting on Mrs. Bernstein's instructions. Mr. Singh is worried that Mrs. Bernstein might be financially abused, but does not know what to do.

The Free Prize – Send Money Scammer.

Ms. Anu Fateh is an 81-year old woman who lives alone and is growing increasingly confused. She answers the phone and to her delight, is informed that she has won a lottery. Anu starts sending money from her bank accounts by wire to the account number given. As the voices on the phone become increasingly threatening Anu goes in to her investment advisor and withdraws \$30,000 in cash and wires that as well. Three days later, she comes in again and wants to withdraw another \$50,000 in cash. Ms. Fateh has a daughter in Boston and a son living about 30 minutes away, who sometimes comes into the financial institution to help his mother and is somewhat known to the staff.

The Toothy Charmer Son.

Mrs. Maria Farris is a very proud 68-year-old woman who uses two canes to help get around. Her investment dealer, Mr. Chung, met Maria's son Vincenzo on several occasions as he would drive her downtown to the firm's offices. Mr. Chung was always impressed by his sharp professionalism, charm, and care for his mother. Mr. Chung started to notice some out-of-character and worrying trades happening. When he called Mrs. Farris, she seemed very confused and foggy. Mr. Chung is worried about privacy, but even more worried about Mrs. Farris' mental capacity. Mr. Chung decides to reach out and call her son Vincenzo about his worries about his mother's capacity and about the trades. The next day, Mrs. Farris comes into the office limping and bruised. She tells Mr. Chung to stay out of things and says she wants to cash out her accounts. Mr. Chung is bewildered.

ⁱⁱⁱ Passmore, Marian & Watts, Tamblin. Canadian Foundation for Advancement of Investor Rights (FAIR), Canadian Centre for Elder Law. "Report on Vulnerable Investors: Elder Abuse, Financial Exploitation, Undue Influence and Diminished Mental Capacity." Nov 2017.

Contributor



Brad Chapman is In-House Counsel and Manager, Legal/Compliance for Leith Wheeler. Brad joined the firm after 18 years in private practice and in-house roles. Brad advises senior management on regulatory issues and helps Leith Wheeler to ensure its businesses are compliant. He holds a Bachelor of Business Administration (BBA) from Simon Fraser University and a Bachelor of Laws (LLB) and Master of Business Administration (MBA) from the University of Western Ontario.

NOTE: *The contents of this article are not intended to represent legal advice. Please consult your lawyer and/or accountant before employing any strategies discussed here.*

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leithwheeler.com

Vancouver Office

Suite 1500 400 Burrard Street
Vancouver, BC V6C 3A6
Tel: 604.683.3391
Fax: 604.683.0323

Calgary Office

Suite 570 1100 1st Street SE
Calgary, Alberta T2G 1B1
Tel: 403.648.4846
Fax: 403.648.4862

Toronto Office

Suite 1801 145 King Street W
Toronto, Ontario M5H 1J8
Tel: 416.646.8240
Fax: 416.646.8249