FINRA
Financial Industry Regulatory Authority

Investor Alerts

Plan for Transition: What You Should Know About the Transfer of Brokerage Account Assets on Death

Many people prepare for the inevitability of death by creating wills or trusts, spelling out instructions about medical care through advance directives, and naming beneficiaries on retirement accounts such as 401(k)s and IRAs. Sometimes overlooked in estate management is the transfer of securities that are in a non-retirement brokerage account, aspects of which can be planned ahead of time.

Responding to issues raised by investors calling FINRA's recently launched Securities Helpline for Seniors, FINRA is issuing this alert to inform brokerage account holders, family members and other beneficiaries about the value of preparing for the inevitable, and the general process firms follow when an account holder passes away. We also provide tips for making the transfer process as efficient and trouble-free as possible for account holders and also for heirs and beneficiaries.

Advance Preparation Can Smooth the Transition: Tips for Account Holders

Advance planning can go a long way toward making a transition of assets easier upon death. If you have an account with a brokerage firm, these tips can help ensure a smooth transition.

1. **Keep family members informed.** Have frank and open discussions with family members about your brokerage account holdings and beneficiaries. If you are the primary decision maker of a joint account, share details of the account. All account holders should know what investments are in their brokerage account and why these investments have been selected.

2. **Hold onto account statements and trade confirmations.** Something as basic as putting account information in a safe and logical place can help heirs and beneficiaries quickly locate firm contact information and notify the firm upon death. These tips can help you keep track of your investments.

3. **Work with your brokerage firm.** Brokerage firms often offer services to account holders and their beneficiaries to discuss assets, last wishes, and aspects of the transfer process on death (including Transfer on Death plans discussed below). It's helpful to engage your firm about such matters—and to do so sooner rather than later.

4. **Designate beneficiaries with care.** Your brokerage firm may provide "Transfer on Death" or other beneficiary documents in order to designate a beneficiary for your brokerage account. Designating a beneficiary can be very helpful, as discussed further below—but remember that a Transfer on Death Plan or other beneficiary document supersedes your will. Ask your firm who they have recorded as a beneficiary for each of your accounts, and make any changes necessary to conform to your will or estate plan. To avoid problems, you should coordinate the beneficiary

for your brokerage account with your overall estate plan. Upon death, your beneficiary designations will go into effect and can no longer be changed, so it's important to make sure they are consistent with your wishes. **Tip: Should you ever transfer an account to another firm, double-check with the firm that any beneficiary designations also transfer. The account transfer process is a good opportunity to confirm your beneficiary designation is in accordance with your wishes.**

Account Ownership Structure

The type of account you own at the time of death dictates how assets are transferred and the documents required in doing so. Here are some common types of brokerage accounts:

Individual or single account. This is an account for one person. Assets transfer to one or more heirs or designated beneficiaries according to specifications in your will or in other transfer documents.

Joint account. There are different types of joint accounts including:

Joint Tenants With Right of Survivorship (JTWROS). Each party has equal right to the account's assets. Each party also has the right of "survivorship"—when one co-owner dies, all the assets in the account can pass to the other co-owner(s) without going through probate.

Tenants in the Entirety. This type of joint ownership is similar to JTWROS, except that it is available only to married couples in certain states.

Tenants in Common. Accounts designated as "tenants in common" give each account holder an individual interest in the account. You may leave your portion of the account to your beneficiary. The surviving account holder does not have a legal right of survivorship to your portion of the account, but does have access to his or her portion of the account after your death. Probate is the state court review and disposition of an estate prior to the distribution of property. During that process, the surviving account owner will generally be able to access at least his or her share of the assets in the account.

Trust account. A trust allows a third party (trustee) to hold assets on behalf of one or more beneficiaries. Trusts can set specific terms in which assets pass to beneficiaries (for example, passing assets to a child when he graduates from college), and trustees are required to manage the account according to the investment specifications of the trust. Assets transfer according to the terms of the trust, and generally avoid probate. It is important to provide your brokerage firm with a copy of the trust document, which can help smooth the transfer of assets.

A trusts and estates lawyer, together with your brokerage firm, can explain the options available to you in your state as well as the differences and pros and cons of account ownership rights of survivorship. This area is governed by state law, and state laws can differ. So if you move, or if you have more than one home in multiple states, be sure to update your legal documents accordingly.

Is a Transfer on Death Plan Right for You?

A clear designation of one or more beneficiaries greatly facilitates the transfer of brokerage assets at the time of death. With a brokerage account, this is often handled through a Transfer on Death Plan, or TOD. Most states have adopted the Uniform TOD Security Registration Act, although some have modified it.

Like the POD (Payable on Death) mechanism available for bank accounts, TOD can be used for individual brokerage accounts and non-retirement accounts, such as mutual funds held outside a retirement plan. Your brokerage firm can tell you which accounts are eligible.

With a TOD, you keep control of the brokerage account assets during your lifetime. After you die, ownership is passed to the named beneficiaries. You can change beneficiaries or cancel your TOD throughout the life of your account, usually by filling out the documents a firm requires to make changes or revoke the TOD. Once you die, your designated beneficiaries cannot be changed.

A TOD generally allows you to avoid probate with respect to your account holdings. Probate is the state court review and disposition of an estate prior to the distribution of property to heirs. Probate can take time and cost money. In contrast, a TOD is a straightforward way to transfer individual non-retirement brokerage holdings to someone else, often without a fee. It can be useful, particularly if an account holder's finances and estate are fairly simple.

Caution: A Transfer on Death controls who inherits your assets when you die. It supersedes a will or trust. For example, if your will states that brokerage assets are to be divided equally between two children, but your TOD designates only one child as the beneficiary—that child alone will receive the assets, and is not obligated to share them. Also, the way your account is titled typically changes once you make a TOD designation. Instead of simply "Your Name," the account will be titled "Your Name, TOD Beneficiary Name."

While a TOD generally allows an account to avoid probate, depending on the size of your overall estate, estate taxes may apply on the assets in your account.

Individual Retirement Accounts

Beneficiary designations are frequently used in retirement plans, including Individual Retirement Accounts (IRAs) to determine who is entitled to account assets. As with a TOD, your IRA beneficiary inherits your assets when you die and supersedes a will or trust. If you have more than one IRA, you generally will need to select a beneficiary for each account, and any changes you make will apply to that account only. While a 401(k) and other retirement plans governed by the Employee Retirement Income Security Act of 1974 (ERISA) protect the surviving spouse's right to a death benefit unless they elect otherwise, no such spousal rights exist with an IRA.

When an Account Holder Dies—What Comes Next?

Upon the death of an account holder, specific procedures vary, but brokerage firms tend to follow a fairly similar process of transitioning accounts to heirs and beneficiaries. Many firms have trained staff and resources to help heirs and beneficiaries address brokerage account estate matters.

Once a firm has been notified of the death of an account holder, the firm will request a variety of documents. These generally include some or all of the following, in whatever format the firm requires:

A death certificate.

Court Letter of Appointment, which names the executor (current in its date and with a visible or original court seal).

A type of power of attorney called "stock power," which allows for the transfer of ownership of stock.

State tax inheritance waiver if applicable.

Affidavit of domicile.

For accounts held in trust, the Trustee certification showing successor trustee.

For joint accounts, a Letter of Authorization signed by the surviving tenant if the assets are moving anywhere other than his or her own account. Alternatively, if there is no surviving tenant and the assets are moving anywhere other than the last decedent's estate account, the firm will require a Letter of Authorization signed by the executor.

Required documents differ depending on the account type at death. For example, different documents are required depending on whether the deceased had a single or joint account, whether one or both account holders are deceased, and whether the account is a trust account and the trustee or grantor has died. Talk to your firm about your specific circumstances to get clarity on what documents the firm will need.

Reasons for Rejection

Follow your firm's instructions closely. Firms may reject the documents they receive because they are not signed in the appropriate capacity (Executor, Survivor, Trustee), they have been completed incorrectly (for example, by transposing certificate numbers), information on the document has been altered, or because documents are outdated or missing the appropriate court seal.

New Accounts and Account Activity During Transition

Once the necessary documents are received, a new account is typically set up for the beneficiary or estate, at which time securities registered in the name of the deceased person will be transferred. Generally, no account activity (buying, selling, transfer of the account to another firm) can occur until legal authority is established and the new account is opened.

As with any new account, the process will include filling out a new account application that will require the beneficiary to provide some information about herself or himself and make certain decisions about the account. Brokers use this information for several purposes, including learning about the new account owner and her financial needs, and meeting legal and regulatory obligations.

If you are a beneficiary opening a new account, check out these FINRA tips about what to expect when you open a brokerage account. Especially if this is your first time working with an investment professional, but even if not, take time to:

Get to know your broker and firm. Use FINRA BrokerCheck to check out the background of an investment professional and firm.

Find out how the account is managed: for instance, find out how buy and sell decisions are made and the fee structure. These tips can help ensure a productive relationship with your investment professional.

Understand the investments in the account. If you aren't sure what an investment is, or what role it plays in your overall financial plan, ask your broker.

Review account statements carefully. This will help you understand assets in the account.

Tips for Heirs and Beneficiaries

If you are an heir or beneficiary to brokerage account assets, these tips can help the ownership transition process go smoothly:

1. **Notify the firm in a timely manner of an account holder's death.** If you aren't sure there is a brokerage account, keep an eye out for account statements or other indications that an account exists.
2. **Provide all required documents, in the format and manner stated by the firm.** Notify the brokerage firm if you have questions about the documents they are requesting, or if you aren't sure how to obtain them.
3. **Know what you own.** Upon taking ownership of the assets, take time to understand your investment holdings and determine whether they are right for you. In particular, learn about the risks of each investment, if there are any restrictions on when you can sell the investment (liquidity risk) and any fees associated with the investment. FINRA offers information about investment products and key investment concepts.
4. **Investigate the pros and cons of selling investments.** If you plan to sell assets, there likely will be costs and tax consequences from the sale. Selling decisions should be in keeping with your overall investment objectives. Consider consulting a tax advisor for guidance.
5. **Assess whether the current firm and broker are right for you.** You are not required to stay with the deceased's firm, or the broker who handled the account—and you should not be pressured to do so. That said, you should not feel compelled to transfer your account to another firm, and don't transfer assets or buy new ones without doing your due diligence about the firm, investment professional and investments.

Addressing Problems

Not every brokerage account transfer situation is trouble-free. If problems occur, you have options.

Contact the firm. If you can't resolve an issue by working with your broker or the firm's estate transfer specialists, explain your concerns to the firm's compliance department.

Involve an estate lawyer as you feel appropriate. Particularly with large or complex estates—or if inheritance questions or account disputes arise—a lawyer with estate experience may prove helpful. Neither your brokerage firm, FINRA nor other securities regulators can provide legal advice. The American Bar Association provides a list of legal resources by state.

Use the FINRA Securities Helpline for Seniors if you are an older investor. Call our helpline toll free at 844-574-3577. Get assistance or raise concerns about issues with brokerage accounts and investments, including estate-transfer matters.

If you are unable to resolve your matter through these channels, you may file a complaint with FINRA. If you are an executor or trustee, there is information on the websites of AARP and the American Bar Association you may find helpful.

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