

Trust Connection

A Monthly Report of Trust News and Information

February 2020

Smith Salley

PRIVATE TRUST

ABOUT US

Smith Salley Private Trust provides trust solutions for clients who want the peace of mind that their estate will be protected and distributed according to their wishes. Our clients don't need to change their investment philosophy, asset management style, or portfolio holdings, because our trust services integrate seamlessly with the same comprehensive financial planning approach they already enjoy.

Prudent Investor Considerations

Prudent Investor Rule - A History

The year was 1830 and the case was Harvard College v. Amory. In the case, Harvard College alleged that the trustees had willfully made high-risk bets in order to benefit the deceased man's widow rather than establish a standard source of income. As a response, Judge Samuel Putman formulated the Prudent Man Rule, the earliest record to attempt prudent standards for investment. "All that can be required of a trustee to invest is that he shall conduct himself faithfully and exercise a sound discretion. He is to observe how men of prudence, discretion, and intelligence manage their own affairs, considering the probable income, as well as the probable safety of the capital to be invested," Putman wrote as a judgment.

What is the Prudent Investor Rule?

Simply put, the Prudent Investor Rule calls on the fiduciary to make investment decisions as if they were his or her own. This means that the fiduciary should refrain from making overly risky investments. The needs of the trust's beneficiaries should always be considered, and these needs can include lack of investment knowledge, trust assets and income.

It's important to note that no one can predict with certainty what will happen with any particular investment decision. Therefore, a prudent investment will not always have the guarantee to turn out profitable. Because of this, the Prudent Investor Rule is only applied during the decision-making process while investing the assets of a trust.

Prudent Investor Rule In Action

Michael is a 26-year-old male who has entrusted his collected savings to a fiduciary. He is young and reasonably tolerant of risk, so he likes the idea of a diversified portfolio that includes regular income from funds as well as cryptocurrencies. His financial advisor provides him with the necessary advice regarding cryptocurrencies (being risky, he is not allowed to recommend them) and invests a portion of Michael's savings in risky assets, such as penny stocks, in accordance with his philosophy.

Prudent Investor Takeaways

- In order to support the beneficiaries, a declaration of trust is used to provide specific instructions for those in management.
- To avoid a dramatic drop in values, the Prudent Investor Rule specifies that the fiduciary should invest in assets as if they were his/her own.

Continued>>



A Local Trust Solution

Call us today at
(336) 379-7556 to learn more
about working with Smith Salley
Private Trust.

For information and assistance,
please feel free to contact one of
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Let us protect and preserve
your wealth so you can remain
confident about the future of
your estate.

- Judge Samuel Putman formulated the Prudent Man Rule to make the first prudent standards for investment.

The Uniform Prudent Investor Act (UPIA)

In 1992, the American Law Institute Third Restatement of the Law of Trusts adopted the Uniform Prudent Investor Act. The UPIA was an update to the Prudent Man Rule. The UPIA created a greater diversified investment portfolio by eliminating category restrictions on different investments. The act made it possible for trustees to include investments such as commodities, futures, and derivatives to their portfolios. Individually these investments have high risk, but together they hold the possibility to boost returns within the total portfolio.

The UPIA's Updates to the Prudent Man Rule

Four main changes the UPIA made from the Prudent Man Rule:

1. The fiduciary can delegate management of the investment and other functions to third parties.
2. For prudent fiduciary investing, as a duty, diversification is required.
3. No investment is considered wholly imprudent. In turn, actions that support the portfolio's needs are considered. Therefore, investments such as futures, derivatives, lien loans, and other similar investments are possible, but outright risks are not covered by the rule and will be subject to liability.
4. Under the UPIA, if the investment was consistent with the objectives of the portfolio, the fiduciary would not be held liable for individual investment losses. When determining the prudence of an individual investment, the whole portfolio is considered.

The UPIA's biggest change was that the prudence standard would apply to the entire portfolio, not just individual investments.

Prudent Investor Rule and Trust Management

Trusts are set up with specific, strict policies due to the amount of (often many) collaborators involved. The trust outlines who will serve as trustee and the powers they hold, who can revoke or amend the trust (if at all), a trustee replacement and distributions.

At its core, the declaration of trust is the trust's instructions to the trustee on how to invest to best serve the beneficiaries. Some states require a written declaration while others do not.

This document, depending on its objectives, highlights specifics regarding the assets in the trust. Let's say that the goal of a certain trust is to provide a somewhat continuous stream of assets to the beneficiaries in the same family for multiple generations. In this case, the trust will more than likely have more securities in place, such as Treasury securities.

For guidance, contact one of our trusted advisors for trusted service while navigating prudent investment considerations.

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