



Portfolio Strategy

What a difference a month can make. February saw markets in both Canada and US hit new all-time highs, while March saw the fastest official bear market ever (as measured by at least a 20% drop) take place. Of course the reason for this is the swift moving coronavirus – Covid-19. The fact that we have, or will enter into a global recession is now a foregone conclusion with many countries on full or severe lockdown. This has devastated economic activity and the stock and fixed income markets are discounting a severe downturn. The crucial question at this point is how long the downturn will last. And this, in turn, will depend on when new COVID-19 infections peak and life returns to some semblance of normalcy. Encouragingly, this may be already starting to happen in Asia. There are also early signs that aggressive – and early – social distancing guidelines are having a positive impact on the growth of infections in Washington State and perhaps in parts of Canada as well. A crucial point for equity investors to remember is that the stock market will begin to rebound well before the economic data or even the news flow improve. Having said that, market volatility is likely to remain for the time being.

Beginning early March we aggressively increased our cash weighting by selling a number of companies that are either more cyclical in nature or dependent upon the strength of the economy. These decisions were in line with our risk management process of identifying securities with weak relative strength. We reduced exposure to some companies and outright sold others including: Whitecap Resources, Boeing, Norfolk Southern, CN Rail and Choice Properties. The one purchase we made was of a gold bullion ETF, which is designed to track the price of gold (gold is often viewed as a hedge against market volatility).

In fixed income, we took the opportunity to purchase a Bell Canada bond after corporate spreads had widened to their highest level since the 2008 banking crisis. Our fixed income portfolio outperformed the overall preferred share market as lower interest rates seen during the month hurt many of the other preferred shares in the market. We continue to like the yield offered by our preferred shares relative to other lower-yielding fixed income securities.

Since our last update, we have meaningfully reduced the risk of our portfolios by increasing cash to a large overweight, increasing our exposure to fixed income and now significantly underweighting equities. Our key equity indicator has moved into the red, leading to our capital preservation positioning. Going forward, we continue to follow our risk management process and will be closely monitoring the equity market, eventually looking for opportunities to deploy some of our cash to companies that now trade at more attractive prices.

Designating Beneficiaries

Naming an individual, a charity, a trust, or a corporation to receive the death benefit of your life insurance policy (“Policy” or “Policies”) or the funds in your registered plans (“Plan” or “Plans”) at death, is called designating a beneficiary. This type of beneficiary designation is different from making a gift in your Will to a named beneficiary or to a specified class of beneficiaries. Please see the attached document for advantages to naming a beneficiary rather than having proceeds simply go to your estate.

As always, if you have any questions, please do not hesitate to contact us.

Please note: We cannot take trading instructions via email or voice mail, please contact your Investment Advisor directly.

For disclaimer details, please click here: <http://www.bmo.com/nesbittburns/popups/about-us/disclaimers>

Designating Beneficiaries

Life Insurance Policies and Registered Plans

Naming an individual, a charity, a trust, or a corporation to receive the death benefit of your life insurance policy (“Policy” or “Policies”) or the funds in your registered plans (“Plan” or “Plans”) at death, is called designating a beneficiary. This type of beneficiary designation is different from making a gift in your Will to a named beneficiary or to a specified class of beneficiaries.

The effect of a beneficiary designation on a Policy or a Plan is that the payment of proceeds or funds is made by the insurer or provider directly to the named beneficiary, bypassing your estate, and without involving the executor of your estate. In most provinces the designation can be made by completing a Beneficiary Designation Form within the Policy or Plan contract, by executing a stand-alone declaration, or, if properly drafted, by a declaration contained in a Will. In Quebec, the designation of a beneficiary in a Plan (other than life insurance policies and annuities) must be done in a Will or a marriage contract.

With respect to Policies, there are two kinds of beneficiary designations – revocable and irrevocable. In Quebec, unless a contrary intention is expressed, designation of a spouse or child is deemed irrevocable. In all other provinces, a designation is revocable unless otherwise stipulated. Revocable designations can be changed without the beneficiary’s knowledge or consent. A Policy with an irrevocable beneficiary designation cannot be altered or revoked without the written consent of the beneficiary. Policies should be made irrevocable only if required by an agreement such as separation agreement, divorce settlement, or shareholder agreements.

It is the owner of the Policy, not the life insured (where they are not the same person), who designates the beneficiaries.

Advantages

There are several benefits to using a beneficiary designation as part of the overall estate plan. These include the ability to:

- Reduce or eliminate probate fees
- Protect against creditors of the estate (depending on the circumstances)
- Protect against family law claims (depending on the circumstances)
- Maintain privacy
- Avoid the probate process in court, if any
- Expedite payment of proceeds, or funds, to beneficiaries
- Equalize beneficiaries with funds outside the estate

Instead of allowing the property to fall to your estate and into the hands of your executor, a beneficiary designation is one way to transfer part of your wealth after your death while protecting the assets from potential estate creditors, and reducing probate fees.

The direct payment to named beneficiaries is more expedient than the distribution of an estate since there is no time delay waiting for the probate process in court or the estate settlement process in Quebec, and the direct payment is a private matter, not in the public domain. It is important to ensure that both a primary and a contingent beneficiary are designated to avoid the funds being paid to the estate in the event that the primary beneficiary has predeceased.

Enhancing the Estate

It is important to keep in mind that the payment of proceeds at death under life insurance policies does not trigger an income tax liability for the estate. The payment of funds under Plans does, unless the beneficiary is a spouse or a dependent child or grandchild, in which case the tax is usually deferred.

A beneficiary designation may not always be the best option. A Policy or Plan payable to the estate is one way to provide for your unpaid taxes and other estate debts that may arise. Additionally, in the event that there is insufficient liquidity in the estate for other liabilities or gifts, a Policy or Plan payable to the estate provides funding without having to sell assets such as real estate.

Designating Minors as Beneficiaries

Minor children may be designated as beneficiaries of Policies or Plans, however a minor is not legally competent to manage property. While a parent of a minor child is automatically the guardian of the child's person, the parent is not the guardian of a minor child's property. Where the value of the gifted funds exceeds the provincial threshold (e.g. \$25,000 in Quebec, \$10,000 in Ontario), and absent the appointment of a trustee, an arm of the provincial government (e.g. Public Curator, Office of the Children's Lawyer) will be the statutory guardian of the child's property, until the child attains the age of majority.

Typically, a Trustee is named in the Will or other document which designates the child as a beneficiary, to manage the child's funds until age of majority, or beyond. The funds must be received by the appointed Trustee on behalf of the child, and kept invested for the child's benefit. Proper documentation of the creation of a Trust for the benefit of the minor child and under what terms the child is to receive distributions, as part of the designation, is critical. Without a proper Trust document outlining the terms of Trust, there is no ability to access the funds for the child's needs (for example, for sports, camps, orthodontics, music lessons, counseling, education, etc.) other than, in some circumstances, by way of application to court. Furthermore, without terms of Trust there is no authority to hold the funds beyond the age of majority.

Creditor Protection

In most provinces and depending on the circumstances, Policies and Plans which are designated to named beneficiaries (not the estate) are protected from estate creditors. Registered Plans, which are not insurance products, are protected in the context of

bankruptcy with the exception of the contributions made to the Plan in the 12 months preceding the date of bankruptcy. In most provinces, insurance products (Plans and Policies) are also protected outside the context of bankruptcy so long as at least one named beneficiary is a spouse, child, parent or grandchild ("creditor protected class") of the owner of the Plan or Policy. With respect to corporately owned Policies and segregated funds that are held in a nominee-registered account, protection from creditors may be lost (this may not apply in Quebec).

Other Considerations

In some provinces divorce nullifies appointments of, and gifts to, a former spouse, made in a Will (this differs in Quebec, depending on the circumstances). However, divorce does not cancel beneficiary designations on Policies and Plans in favour of the former spouse. The designation remains intact and, as a result, the former spouse would be entitled to the proceeds or funds, although that may not have been the intention of the deceased. Where a marriage or common-law relationship ends, clients should be advised to make appropriate changes to any beneficiary designations they may have made, in addition to changing their Wills.

Typically, the last document signed which is a valid beneficiary designation trumps previous designations. The onus is on the owner of the Policy or Plan to inform the insurer or provider of any re-designation. Additionally, with respect to life insurance Policies, beneficiary designations govern only those Policies which exist at the date the designation is made.

Successor Annuitant versus Beneficiary Designation of Registered Plans

Many clients ask what the difference is between a successor annuitant and a designated beneficiary, with respect to registered plans.

A successor annuitant can only be a surviving spouse, and, only with respect to payments from a Registered Retirement Income Fund ("RRIF"). The effect of a successor annuitant appointment is that the funds are NOT rolled over to the RRIF of the surviving spouse. In the case of a successor annuitant appointment, the surviving spouse "takes over" the existing RRIF account of the deceased. The account itself remains the same and no funds are moved out of the deceased's account. The name and SIN are simply changed to that of the surviving spouse. The payments will continue to be calculated on the date of birth of the deceased spouse.

All other types of registered plans (including the RRIF) can be designated, either by Form or Will, by naming a beneficiary who is to receive the entire Plan funds. In this case, the funds in the Plan move out of the deceased's Plan account. Only in the case of a surviving spouse or common-law partner (or a financially dependent child or grandchild – as defined in the Income Tax Act) who elects to fund his/her own RRSP/RRIF plan without cashing out the deceased spouse's Plan, can there be a rollover (tax deferral) of the deceased's Plan. In that case, taxes would be payable on the second death. So, in the case of a designated beneficiary, as opposed to a successor annuitant, the surviving spouse may elect to transfer the assets to his/her own RRSP or RRIF. Estate tax receipts will be issued if this option is elected – T4RIF and a 60(l) off-setting contribution receipt in the name of the surviving spouse. If the funds are rolled over to the surviving spouse (either an RRSP or RRIF) the deceased's RRIF minimum payment (or remainder thereof) must be paid out to the surviving spouse first as the CRA deems it ineligible for rollover. Where the designated beneficiary is not a spouse/common-law partner (or a financially dependent child or grandchild), income tax on the Plan is payable pursuant to the deemed disposition at death.

Seek Professional Advice

Beneficiary designations regarding registered Plans and life insurance Policies can be complicated. There are differences in provincial laws governing how designations are made. Federal and provincial statutes, case law and the Civil Code in Quebec determine the nature and extent of creditor protection that applies to a Plan or Policy (or its proceeds), whether during lifetime or after death of the owner. It is critical that you consult with a professional in your jurisdiction before making or changing a beneficiary designation on a Plan or a Policy. It is also important to keep a detailed list of Plans and Policies where beneficiary designations have been made and to review these every few years to ensure that the designations are consistent with your overall estate plan, and that they reflect your current intentions and your current life circumstances.



For more information, speak with your BMO financial professional.



BMO Wealth Management provides this publication for informational purposes only and it is not and should not be construed as professional advice to any individual. The information contained in this publication is based on material believed to be reliable at the time of publication, but BMO Wealth Management cannot guarantee the information is accurate or complete. Individuals should contact their BMO representative for professional advice regarding their personal circumstances and/or financial position. The comments included in this publication are not intended to be a definitive analysis of tax applicability or trust and estates law. The comments are general in nature and professional advice regarding an individual's particular tax position should be obtained in respect of any person's specific circumstances.

BMO Wealth Management is a brand name that refers to Bank of Montreal and certain of its affiliates in providing wealth management products and services. Not all products and services are offered by all legal entities within BMO Wealth Management.

BMO Private Banking is part of BMO Wealth Management. Banking services are offered through Bank of Montreal. Investment management services are offered through BMO Private Investment Counsel Inc., an indirect subsidiary of Bank of Montreal. Estate, trust, planning and custodial services are offered through BMO Trust Company, a wholly owned subsidiary of Bank of Montreal.

BMO Nesbitt Burns Inc. provides comprehensive investment services and is a wholly owned subsidiary of Bank of Montreal. If you are already a client of BMO Nesbitt Burns Inc., please contact your Investment Advisor for more information. All insurance products and advice are offered through BMO Estate Insurance Advisory Services Inc. by licensed life insurance agents, and, in Quebec, by financial security advisors.

© "BMO (M-bar Roundel symbol)" is a registered trademark of Bank of Montreal, used under licence.

All rights are reserved. No part of this publication may be reproduced in any form, or referred to in any other publication, without the express written permission of BMO Wealth Management.