



PORTFOLIO STRATEGY

Power of attorney is your financial defence against the risks of aging

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There's more to de-risking your retirement investments than preparing for stock-market crashes, inflation and other headline-grabbing events.

The risk of losing your ability to look after your investments as you age must also be addressed. Whether from an incapacitating illness or dementia, you could be in a position where you are unable to make needed changes in your portfolio or withdraw needed funds.

Just as you use diversification to make yourself less vulnerable to events in the economy and financial markets, so can you protect yourself from health risks by giving a trusted adult child, spouse or partner power of attorney over your account.

"Every time I have a husband and wife come in, I do a full power of attorney," said Jillian Bryan, a vice-president and investment adviser at TD Wealth Management. "It's part of a formalized planning process, which is sitting down with a couple and first asking, 'Do you have a will?' By the way, I have two couples with net worth north of \$10-million and no will. It's shocking."

Ms. Bryan said power of attorney gives a designated person permission to make trades in an account if it's self-directed, to confer with an adviser and to move or withdraw money from an account. "The attorney also has the authority to request material changes on the account – change of address, for example."

Your designated attorney must act in your best interest, which in legal terms means they have a fiduciary obligation. You'll want to pick someone who is trustworthy, both in an ethical and investing sense. Remember, this person will be in charge of your financial well-being at a time when you can't act for yourself.

Rules for powers of attorney vary between provinces. One variation is a general power of attorney, which can be used for a short period (you're out of the country for an extended period) or if you simply want to delegate your finances to someone. If you want someone to act for you if you're incapacitated or suffer from dementia, then you may need what's called a continuing or enduring power of attorney.

With non-registered investments, it's possible for couples to set up joint accounts where both spouses can manage the account as required (there are ins and outs to this that I may look at in a future column). But joint accounts aren't available for [registered retirement-savings plans, registered retirement-income funds and tax-free savings accounts](#). If you don't designate an attorney, a guardian may have to be appointed for you through a potentially costly court application.

Investment firms such as TD offer clients power-of-attorney forms that apply to in-house accounts only. But it's also possible to have a lawyer draft a power of attorney for property, that applies to all your assets. A power of attorney for both property and health-related decisions are often tackled when you have a will drawn up. Do-it-yourself power-of-attorney kits are also available.

Rachel Blumenfeld, a trusts and estate lawyer with Aird & Berlis LLP, says designating your spouse in a long-standing, healthy marriage as your attorney can be a good idea. But she's cautious about second marriages, where the mixing of families can make things more complex.

Designating adult children can also be tricky. Siblings may be resentful of a brother or sister chosen by parents to step in for them to manage their investments. Also, cases of children using parental money for themselves or in ways that aren't in sync with the parent's desires are not unheard of. "Yes, parents trust their children," Ms. Blumenfeld said. "But they shouldn't always."

Here are some points suggested by Ms. Blumenfeld if you're setting up a power of attorney:

- Unless you specify otherwise, a new power of attorney may revoke an earlier arrangement you put in place;
- You can place limitations on what types of transactions your attorney is able to conduct, which accounts are covered and for how long the power of attorney applies;
- You can cancel a power of attorney;
- You can have more than one attorney, or an alternate attorney if the main designate is unable to do the job.

A half-way step to the power of attorney is giving someone trading authority (TA) over your account. You do this by filling out the appropriate form from your investment firm. "The designated TA is only permitted to execute trades on the account," TD says on its website. "They cannot direct the movement of money into or out of the account."

Trading authority may suffice for younger to middle-aged couples where one spouse typically makes all the investing decisions on the partner's behalf. But it's no substitute for a power of attorney because it doesn't allow money to be moved out of the account to, for example, cover bills or living expenses.

A notable limitation with the power of attorney is that it doesn't allow your designated attorney to pick a new beneficiary or joint applicant for your account. For this reason, it's important to set and review your beneficiaries while you're of sound mind and able to make any needed changes.

Ms. Blumenfeld said that after a power of attorney is set up, it can be put into use at any time. If you have a power of attorney drafted by a lawyer, she suggests you present an original or notarized copy to your investment firms. Even then, she says it's possible that the designated attorney might be asked to provide additional documentation that the account holder cannot make his or her own financial decisions. For example, an adult child taking over a parent's account might be asked for a doctor's letter or assessment to show the parent can't manage the money any longer.

TD's Ms. Bryan said it's common for aged parents to give adult children power of attorney over their investments. "If I see the parents starting to slip, I make a point of meeting the adult children so they know what's going on," she said.

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