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## **TRANSFER-ON-DEATH SECURITY REGISTRATION ACT**

New legislation will permit investment accounts and securities to be titled in beneficiary form. Previously, only bank accounts could designate a named beneficiary. Under the new law, which became effective on January 1, 2006 and will apply to securities registered on or after January 1, 2007 in order to provide financial institutions with time to initiate policies and procedures and to create the necessary forms, stocks and other investments can be “transferred on death” or “paid on death” directly to a named beneficiary, after the owner passes away, without going through the probate process. The beneficiary designation can be canceled or changed at any time during the owner’s life without the consent of the beneficiary.

While this new legislation was intended to simplify post-death transfers, it has unintended consequences. Too often, and without any consideration of the tax consequences or family composition of the account owner, these designations will be recommended by financial consultants to simplify, *for the institution*, the transfer of the accounts after the owner’s death.

These beneficiary designations supercede the disposition of assets under a last will and testament or trust and can be contrary to a well conceived and carefully designed estate plan. The intended beneficiary may be a minor, or incapacitated, or fiscally irresponsible, and the beneficiary’s receipt of the security without management may undermine the account owner’s wishes as expressed in the will or trust. The completion of these beneficiary designations may create an unacceptable risk and should only be undertaken after an overall review of the entire estate plan to ensure that they are not inconsistent.

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