PERSONAL FINANCIAL PLANNING FOR EXECUTIVES AND ENTREPRENEURS

The Path to Financial Peace of Mind

Michael J. Nathanson, Jeffrey T. Craig, Jennifer A. Geoghegan, Nadine Gordon Lee, Michael A. Haber, Max B. Haspel, Seth P. Hieken, Matthew C. Ilteris, D. Scott McDonald, Joseph A. Salvati & Stephen R. Stelljes

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Maximizing Rewards
Achieving Financial Independence
PEACE OF MIND
Minimizing Risks
Planning for Taxes
Planning for Others

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Finally, we thank our families and our colleagues for patiently supporting each of us as we worked on this book.

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Nathanson is frequently cited in the media as an industry expert, and he has been interviewed and quoted by many national and local news outlets, including Reuters, Dow Jones, Investment News, Real Assets Adviser, Financial Advisor, Financial Times, Financial Planning, RIA Biz, Advisor One, Registered Rep, Lawyer's Weekly, and the Boston Business Journal. He also has been a speaker and lecturer for organizations such as Wall Street Week, Barron's, Fidelity Investments, Charles Schwab, TD AMERITRADE, the National Association of Stock Plan Professionals, the Boston Bar Association, Comp Study, Mass MEDIC, MCLE, and VC Experts. He has published articles on a wide variety of financial, tax, and legal topics in periodicals that include the Journal of Financial Planning, Financial Planning magazine, Financial Advisor, Financial Advisor IQ, the Journal of Compensation and Benefits, the Journal of International Taxation, Chief Executive, CNBC, Fox Business, MarketWatch, Software Magazine, World Trade Executive, State Tax Notes, Tax Notes, Tax Notes International, Taxation for Accountants, Taxation for Lawyers, The Tax Adviser, the Boston Business

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Nathanson is also passionate about public service. He served as the Chairman of the Board of Directors of the National Brain Tumor Society and as a member of the Boards of Directors of the affiliated Pediatric Cancer Cure and Cure GBM. He also has served as a member of the Investment Committee Advisory Group of the Massachusetts Service Alliance and as a Trustee and Director of the Historical Society of Needham, Massachusetts.

Nathanson has been selected six times as a "Super Lawyer," as published in Massachusetts Super Lawyers, a periodical that honors lawyers who have distinguished themselves in the practice of law. He also has been recognized ten times by Barron's magazine as one of the top 100 independent financial advisors in the nation and has been included in Worth magazine's list of the country's top 250 wealth advisors.

Previously, Nathanson served as Chief Financial Officer and General Counsel of The Colony Group. Prior to joining The Colony Group, he was a Senior Partner at the international law firm of Wilmer Cutler Pickering Hale and Dorr LLP, where he held several leadership positions. He earned his Juris Doctor, cum laude, from Harvard Law School, an LL.M. in Taxation from Boston University School of Law, and a Bachelor of Arts, summa cum laude, from Brandeis University, where he was elected to membership in Phi Beta Kappa and was the recipient of numerous academic honors.

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Before joining The Colony Group, Craig was a Financial Advisor for American Express Financial Advisors, where he worked with clients to develop financial plans. Previously, he held NASD Series 7, 63, and 66 licenses. He was named a "Five Star Wealth Manager" by Boston Magazine in 2016 and 2017.

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Prior to joining The Colony Group, Geoghegan was the Vice President of Marketing and Advisor Coach at Focus Financial Partners, a leading partnership of independent wealth management firms, which The Colony Group joined in 2011. Before joining Focus, Geoghegan was VP, Card Acquisitions, at American Express, where she marketed premium card products to affluent prospects. During her tenure at American Express, she also worked on new product development, customer loyalty and retention, and interactive marketing, giving her experience across the full affluent consumer lifecycle.

Geoghegan holds an MBA in Marketing and International Business from the New York University Stern School of Business and a Bachelor of Arts in Foreign Affairs from the University of Virginia. More recently she received an executive coaching certification from Columbia University.

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Haspel graduated from Colgate University with a degree in economics, and recently finished a term on the Alumni Council. His community pursuits include Board Member Emeritus of the Fiver Children's Foundation, Commodore of a community sailing program, and volunteer fire fighting. With a strong commitment to continued learning, Haspel attended the Advest Institute at Harvard and obtained a Wharton Certificate in Retirement Planning.

In 2020 Haspel was ranked #15 by Forbes in their Best-in-State Wealth Advisors list for New York (ex-NYC).

Seth P. Hieken, MSF, CFA is a longtime member of The Colony Group, having joined the firm in 1994. He is the Executive Vice President of Proprietary Strategies and a Principal of The Colony Group.

With more than 20 years of experience in investment research and portfolio management, he is the lead manager on The Colony Group's mid-cap strategy. Hieken also manages a select group of large-cap portfolios while taking an active role in equity research. In addition, he holds the Chartered Financial Analyst® designation and is a member of the CFA Institute and the Boston Security Analysts Society. Before Colony, Hieken was a portfolio manager and research analyst for the trust department of Hutchins, Wheeler and Ditmar.

Hieken has been published in various trade publications, including Advisor Perspectives and the Boston Business Journal. He also has been quoted in Investment News and Bloomberg News and interviewed on multiple occasions by Wall Street Transcript. He earned a Bachelor of Science from Cornell University and a Master of Science in Finance from Bentley University.

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Lee's planning expertise incorporates investment management techniques with philanthropic, estate, and income tax strategies to optimize family wealth while controlling risk.

As a leader within her profession, she has held the following key positions:

- Personal Financial Planning Executive Committee of the American Institute of CPAs
- Vice President and Director of the New York State Society of CPAs
- Chair of the Investment Committee of the NYSSCPA
- President of the Estate Planning Council of New York City

As a speaker, her audiences have included the Wharton School, the UJA, the Investment Management Institute, the American Institute of CPAs, the FPA, the NYSSCPA, and the Estate Planning Council of NYC. Lee is frequently quoted in the financial press and has had many interviews on network television, including hosting her own seven-part series on wealth management and financial planning on CNN financial news.

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Prior to joining The Colony Group, McDonald served as a Client Service Officer in the Defined Contribution Services Division of State Street Bank, where he supervised a group responsible for the management and oversight of group retirement plans. Before State Street, McDonald held accounting and finance positions at Bank of Boston and Investors Bank & Trust Company. He earned a Master of Science in Personal Financial Planning from Bentley College and a Bachelor of Science in Accounting from Providence College.

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Prior to joining The Colony Group in 1998, Stelljes provided financial counseling and tax services for high-net-worth individuals with The Ayco Company and the international accounting firm of Deloitte & Touche, LLP. Stelles is admitted to practice law in the State of New York and holds the CERTIFIED FINANCIAL PLANNER™ designation. He is a member of the Boston Estate Planning Council.

He earned his Juris Doctor with distinction from Albany Law School and a Bachelor of Science in Business Administration/Finance from the State University of New York with honors.

The Colony Group, LLC is an independent, fee-only, financial advisory firm with approximately $12 billion in assets under management[1] and employees in multiple offices across the United States. Founded in 1986, The Colony Group provides corporate executives, entrepreneurs, high-net-worth individuals and families, service professionals, professional athletes, entertainers, and institutions with expertise that goes beyond investment management and encompasses the full suite of wealth management and business management services, including tax, estate, retirement, and philanthropic planning, asset allocation, and cash and risk management. More information can be found at www.thecolonygroup.com.

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[1] As of September 30, 2020.

ment of Colony or its representatives by any of its clients. Rankings published by magazines and others are generally based exclusively on information prepared and/or submitted by the recognized advisor. Moreover, with regard to all performance information contained herein, directly or indirectly, if any, users should note that past results are not indicative of future results. Please see below for a more detailed description of the criteria used with respect to the awards and recognitions granted to Colony's individual employees.

Barron's criteria: Advisor's assets under management, contribution to the firm's revenues and profits, and quality of service. The Barron's lists included Michael Nathanson for 2007 and 2009–2017.

Five Star Professional criteria: Credentialed as an IAR, FINRA-registered rep, a CPA, or a licensed attorney; at least five years in the financial services industry; favorable regulatory and complaint history review; meeting firm's review standards; accepting new clients; one and five-year retention rates; assets administered; number of households served; and education and professional designations.

Worth criteria: Individual advisor's expertise, integrity, and dedication to the field of wealth management; portfolio management strategies; risk analysis; client service initiatives; and the educational and professional credentials of advisors. The Worth list included Michael Nathanson for 2008.

Super Lawyers criteria: Candidates are evaluated on 12 indicators of peer recognition and professional achievement. Selections are made on an annual, state-by-state basis. The list included Michael Nathanson from 2004–2009.

Forbes Best-in-State Wealth Advisors criteria: Based on an algorithm of qualitative criteria, mostly gained through telephone and in-person due diligence interviews, and quantitative data, including years of experience, revenue trends, AUM, compliance records, client retention, best practices, and approach to working with clients. Max Haspel received this recognition in 2020.

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Introduction

Effective financial planning is complex, dense, and impossible to reduce to a single, easy-to-understand formula—but please don't stop reading! We understand the great challenge of writing a book about financial planning for corporate executives and entrepreneurs that reads like a best-selling novel, and we love a challenge.

Our approach is designed to keep your attention and make sure that, by the end of this book, you have a strong sense of the power of effective, targeted financial planning. We will begin by telling you a story about a fictional, but plausible, couple and their family who (spoiler alert!) do pretty much everything wrong in securing their financial future. In most cases, they don't do the things they need to do because they don't know what they are.

Then, we're going to break down this story in chapters that offer a practical discussion of all the key points. These chapters contain the tools needed to tailor a plan for virtually every circumstance and need. As you will see, there is no single plan that works for everybody—if there were, we'd sell it to you in this book! There is complicated, technical information scattered throughout the book, and we do our best to explain it all. But the best use of this information may be to highlight things you should discuss with your financial advisor. All people are different, and there always will be issues and imperfections surrounding generalizations.

Let's start with a definition of our principal subject matter: executives and entrepreneurs. For our purposes, we will focus on those employees of a business organization who are in a position of leadership or management or who have substantially progressed along a career path toward being in such a position. We will use the term "corporate executive" to describe both "executives" and "entrepreneurs," though we certainly acknowledge that there can be a distinction, with the term "executives" typically referring to the leaders of larger organizations and the term "entrepreneurs" often referring to the leaders of smaller, private organizations. Our fictional characters will illustrate some of these differences.

Most obviously, a corporate executive might be a member of an organization's "C-suite," which can be extensive in some larger organizations (Table 1).

Table 1 The ever-expanding C-suite

ACRONYM	TITLE	CORE RESPONSIBILITIES
CAO	Chief Accounting Officer	Implementation and enforcement of accounting policies
CAO	Chief Administrative Officer	Administrative and operational platforms
CCO	Chief Communications Officer	Public relations and communications
CCO	Chief Compliance Officer	Compliance with laws, regulations, and ordinances
CCO	Chief Cultural Officer	Cultural oversight and strategy
CDO	Chief Data Officer	Data mining, analysis, and utilization
CDO	Chief Diversity Officer	Human capital diversity
CEO	Chief Executive Officer	Strategic vision, oversight, and governance
CFO	Chief Financial Officer	Financial oversight and reporting
CHRO	Chief Human Resources Officer[a]	Personnel
CIO	Chief Information Officer	Information resources
CIO	Chief Investment Officer	Management of investment assets
CLO	Chief Legal Officer	Legal compliance, oversight, and issues
CMO	Chief Marketing Officer	Marketing and branding
CMO	Chief Medical Officer	Medical elements of product or service offering
COO	Chief Operating Officer	Operating oversight and efficiency
COS	Chief of Staff	Oversight and coordination of management team
CPO	Chief Procurement Officer	Supply management
CRO	Chief Revenue Officer	Revenue generation
CRO	Chief Risk Officer	Assessing and managing risk
CSO	Chief Sales Officer	Sales force and function
CSO	Chief Scientific Officer	Scientific research, programs, and operations
CSO	Chief Strategy Officer	Strategic oversight, acquisitions, and dispositions
CTO	Chief Technology Officer	Information technology and development

[a]Similar titles include Chief Human Capital Officer, Chief People Officer, and Chief Talent Officer

Corporate executives may also include the organization's President, Treasurer, Executive Vice Presidents, Senior Vice Presidents, Managing Directors, and, in some organizations, Directors.[1] A General Counsel and, in some companies, a Deputy General Counsel also would be a corporate executive, as would a marketing or sales executive, a Controller, and the senior members of the human capital team.

As discussed below, corporate executives typically are among the organization's higher-paid employees, are eligible for performance-based compensation arrangements, and are likely to own equity or equity-based rights in the organization. They also may have complex employment contracts and relatively extensive benefits packages.

We'll use the term "corporate executives" for people who work for large or small public or private corporations, as well as limited liability companies, partnerships, or other non-corporate entities.[2] Throughout the book we'll try to account for the relevant variables whenever appropriate. (Again, there's that key principle: optimal financial planning requires that we consider the specific facts of each case!).

What, from a financial planning perspective, makes corporate executives different? The answer is complex, reflecting the nature of our subject matter. Here are some of the key characteristics that differentiate many (but not all) corporate executives.

They Are Leaders Who Set High Goals and Worry About Achieving Them

This select group includes people with leadership and management skills, often deep education and training, and vast business and life experience. But how do corporate executives manage their own finances? Do they follow the same patterns as others?

In general, when it comes to managing their finances, wealthier people fall into one of three commonly delineated segments: Managers; Partners; and Loners (Fig. 1).

You might assume that the majority of corporate executives would be Managers, with the minority being Partners or Loners. Yet most tend to be Partners or Loners, with Managers representing the smallest segment of corporate executives. According to a study conducted by Fidelity Investments, fewer than 25% fall into the Manager category, with about 45% identifying themselves as Partners and 31% as Loners.[3] The same study reports that 69% of the corporate executives surveyed worked with a financial advisor.[4]

Two-thirds of the corporate executives surveyed acknowledged the need for third-party expertise when planning for their own financial futures. Yet, two-thirds also wanted to remain directly engaged in the financial planning process, as opposed to delegating it fully to others.

Fig. 1 Managers, partners, and loners. Source: "Tapping into the Millionaire Professional," The Fidelity Millionaire Outlook Series (2008, 2012). © 2018 FMR LLC. All rights reserved. Used with permission

This apparent paradox suggests a basic reality: corporate executives worry more than others about achieving their goals because of their general knowledge levels, compulsion to set and achieve higher goals, and desire to stay involved in the execution process. Some turn to professional advisors to maximize their chances of achieving those goals; and some opt to take on all of the responsibilities themselves, again with the intent of maximizing their odds of success. Either way, corporate executives do trend toward an intensive approach, in which they often set high goals and worry more about achieving them.

The above survey also asked the executives to identify their more pressing concerns. The results demonstrated greater levels of concerns by corporate executives than other millionaires in almost every single subject area covered by the survey! (Fig. 2).[5]

When the financial planning dynamic for corporate executives accounts for these concerns, it is far more effective. It is better tailored to identify and achieve all of the appropriate goals and take into account the psychological elements and context of the process.

They Are Paid More Than Other Employees

It may seem an obvious point, but corporate executives often can be distinguished simply by the amount of their pay relative to others in the company. In a 2019 study conducted by the Economic Policy Institute, for the 350 largest U.S. public companies by revenue, the ratio of CEO pay to the pay of other workers was 278 to 1![6]

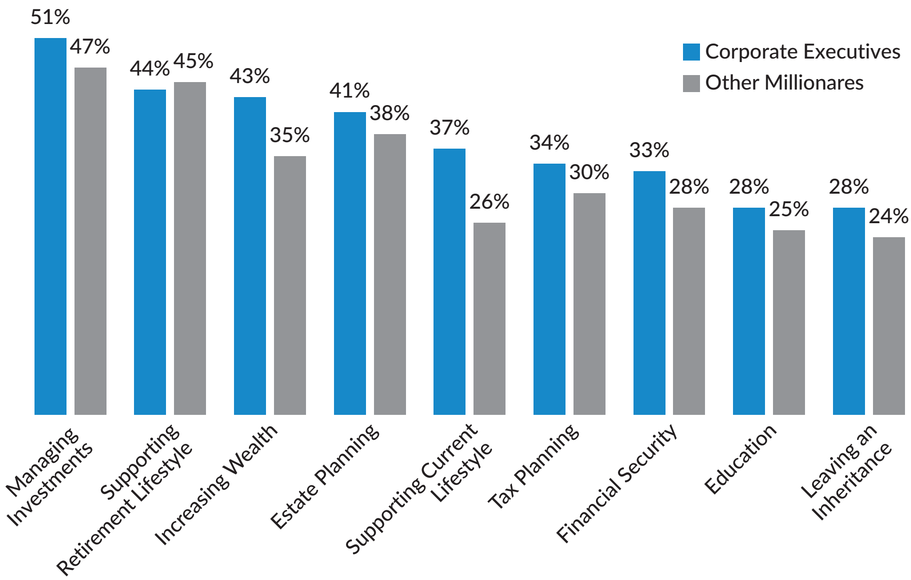

Fig. 2 What's keeping corporate executives awake at night? Source: "Tapping into the Millionaire Professional," The Fidelity Millionaire Outlook Series (2008, 2012).

More generally, according to the Fidelity Millionaire Outlook study, corporate executives were at the top of the list of professional categories among millionaire households (Fig. 3).[7]

Less obvious, however, is the composition of a typical executive pay package. Often, when we read about the highest paid executives, we read that they are paid millions of dollars each year. Yet, many executives actually are paid smaller base salaries and receive a large portion of their total compensation either as variable or deferred compensation or, in many cases, as equity-based incentives such as restricted stock awards, stock options, or "phantom" equity arrangements (all of which will be discussed in later chapters).

The Economic Policy Institute study reports that average annual compensation among the country's top CEOs was over $17 million. This figure includes salary, bonuses, stock grants, options exercised, and other incentives.[8]

In any event, corporate executives typically are the highest paid people in an organization. Of course, because they are paid so much, and because the form of their pay can be so varied, they usually require substantial and often complex planning focused specifically on and around their compensation arrangements.

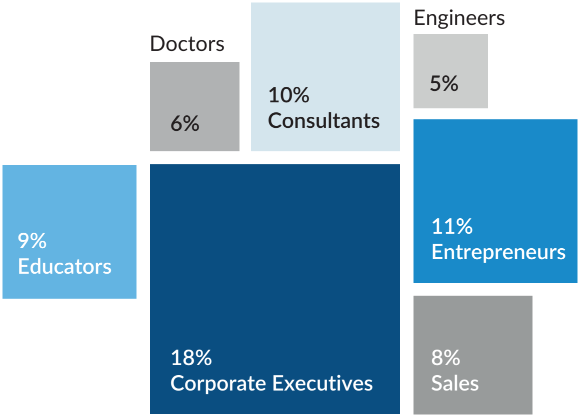

Fig. 3 Corporate executives as millionaire professionals. Source: "Tapping into the Millionaire Professional," The Fidelity Millionaire Outlook Series (2008, 2012).

They May Be Employed Under a Formal Contract of Employment

Corporate executives often have sufficient leverage when negotiating the terms of their employment to demand the protections and benefits offered by a formal, enforceable contract of employment. Conversely, their employers may see the "investment" they are making in their key employees as so important that they insist on the formality of a contract. Either way, corporate executives often have written agreements that specify with some degree of legal clarity a multitude of benefits and obligations, potentially including the following key elements:

- Position, title, and scope of responsibilities
- Base and variable compensation
- Equity ownership and opportunities
- Benefits
- Term of employment
- Restrictive covenants
- Separation-related features

The agreement may specify that the executive is an employee-at-will, which means they can be fired at any time for any reason, or that the executive is guaranteed a definite term of employment. In the latter case—and sometimes in the former as well—the agreement may contain provisions that specify the outcomes of events such as changes of corporate control (e.g., mergers or acquisitions), voluntary and involuntary termination, death, disability, and even personal bankruptcy or divorce.

Regardless of the circumstances, a corporate executive's employment agreement presents not only a multitude of crucial financial planning opportunities but also a maze that, if not properly navigated, can lead to a financial dead end. We will devote an entire chapter exclusively to understanding and planning around executive employment agreements.

Their Compensation Is Likely to Be Tied, in Part, to Specific Performance Goals and Standards

As suggested above, a corporate executive likely will have a component of base compensation and also a component—often a disproportionately large one—of variable compensation. Variable compensation arrangements, which can take many forms, often are utilized to provide the appropriate alignment and incentives (both long-term and short-term) to the executive while also ensuring that the executive is rewarded only when goals are achieved. In some cases, especially where payment is deferred, these arrangements are used to retain key employees.

In general, the larger the company, the more likely it is that variable compensation will comprise a substantial portion of the executives' total compensation packages. Typical base compensation for the CEOs of larger companies has often been limited to about $1 million, in part because of federal income tax rules that have limited the deductibility by companies of executive compensation over that amount.[9] In fact, among some of the largest companies in the world, fixed base compensation for the most senior executives has been as low as $1![10] The rest is all variable, comprised of bonuses, equity-based awards, and benefits (Table 2).

This means, as we will discuss in greater detail, the executive needs to plan for multiple iterations of success and failure—both annually and over longer periods of time. In this way, corporate executives face complex planning issues that are less prevalent among employees whose pay is more predictable.

Table 2 Notable members of the $1 Club

CORPORATE EXECUTIVE	COMPANY	BASE COMPENSATION	TOTAL COMPENSATION
Jeremy Stoppelman	Yelp	$1	$6,310,987[a]
Evan Spiegel	Snap	$1	$1,669,810[b]
Larry Ellison	Oracle	$1	$1,662,828[c]
Mark Zuckerberg	Facebook	$1	$23,415,973[d]

[a]See Yelp Proxy Statement (May 11, 2020)
[b]See Snap Form 10-K (February 5, 2020)
[c]See Oracle Proxy Statement (September 27, 2019)
[d]See Facebook Proxy Statement (April 10, 2020)

They Are, or Will Be, Owners of Equity or Equity-Based Rights

Executives who founded their companies will likely own substantial equity in the entity for historic reasons, as well as for continued alignment of interests. Non-founders may also receive equity-based grants as incentives for future performance.

At the time of his death, Steve Jobs, who co-founded Apple, owned about 5.5 million shares of Apple stock, worth over $2 billion.[11] When Tim Cook assumed the role of CEO of Apple, the company's board of directors granted him one million restricted stock units, worth about $383 million.[12]

In general, corporate executives will own important amounts of equity—in one form or another—in their employer. In fact, at least among public companies, it has become common to impose minimum "guidelines" on the ownership of stock by executives. Typically, these guidelines are based on a compensation multiple (e.g., share value must be at least three times base salary); but they can also be based on a number of shares or a share value assigned to each position.[13]

As we will see, planning to earn, hold, transfer, and eventually liquidate this equity, which can be an executive's largest holding, can be complicated. Later in this book we'll look at:

- Investment-related considerations
- Tax implications
- Estate-planning consequences

- Liquidity and cash-flow needs
- Legal constraints and obligations

Their Financial Fortunes Are Correlated to the Company's Overall Performance

Because they typically own large amounts of equity in their companies, executives often find themselves relying—perhaps over-relying—on their employers not only for their current income but also for their overall, long-term investment fortunes. In effect, an executive's financial well-being can become highly correlated to the well-being of the company that they serve. This interesting but stark reality can turn out well for an executive when the company performs well; and, of course, it can turn out disastrously when the company falters.

In 2011, a flat year for the S&P 500, the CEOs of the largest 500 U.S. companies saw the value of their stock awards and stock options account for over 60% of their total pay.[14] That's great when all is well; but consider the cases of Enron, WorldCom, and Global Crossing, whose executives—even the ones who were in no way implicated in any wrongdoing—experienced unprecedented wealth destruction in such a short period of time that they had little opportunity to help themselves. By some estimates, the shareholders of Enron, including its executives, ultimately lost over $60 billion of wealth when the company collapsed in 2001.[15]

This so-called "over-concentration" phenomenon requires an executive to take appropriate measures to mitigate risk through techniques that can include:

- Strategic and tactical asset allocation
- Hedging
- Planned diversification

Yet, these techniques often are complicated by a different and competing set of considerations, making the planning process highly complex and dynamic. These competing considerations, which may include public disclosure as well as tax and securities law considerations, will be addressed in subsequent chapters.

They Have Complex, Sometimes Extensive Benefits Packages

In the case of certain employee benefits, such as health insurance, there may be legal and other considerations that mitigate any substantial differences in the benefit plans offered to an organization's executives on the one hand and non-executive employees on the other. Still, there can be dramatic differences not only in the employee benefits offered to corporate executives but also in the opportunities they are given to maximize the impact of those benefits.

We will address in detail the analysis and utilization of employee benefits by corporate executives. You'll see throughout this book that decisions that may seem small when made can lead to very large, and highly lucrative, results over time. This principle is especially true for employee benefits.

They May Be Subject to Legal Risks, Obligations, and Liabilities Associated with the Positions They Hold

With the many rewards of serving as a corporate executive come an equal magnitude of responsibilities, risks, and potential liabilities that other employees don't face. Many of these burdens are attached exclusively to the executives of public or pre-public companies, such as those arising from the need to provide holdings disclosures and comply with laws against insider trading.[16] Some only apply to select corporate executives, such as the CEO or CFO, who may be subject to special obligations and liabilities under the legal rules surrounding the audit process or the filing of financial statements and disclosures.

Executive officers can also find themselves subject to a civil lawsuit by shareholders or others who seek to hold them personally responsible for conduct that may have led to damage to shareholders or others. Equally seriously, CEOs and CFOs of public companies may be subject to "disgorgement" obligations in the event that a company is required to restate its earnings as a result of any misconduct; and they may be subject to criminal fines and penalties for improperly certifying their companies' financial statements.[17]

There are many other examples that apply not only with respect to public companies but also with respect to private companies; and a failure to address and protect against these pitfalls is a failure of adequate planning. Our