

>>>FAIRVIEW FLASH REPORT<<<

SEC Releases 'No-Action' Letter Concerning the Custody Rule

WHAT HAPPENED?	<p>On February 21, 2017, the SEC released a 'no-action' letter to address confusion surrounding the Investment Advisers Act Rule 206(4)-4 (the "Custody Rule") and its requirements for first-party money movement and third-party money movement. The letter is intended to assist advisers and custodians better understand the implications of these practices and how to comply with the new requirements.</p>
FIRST-PARTY MONEY MOVEMENT	<p>First-party money movement authority is considered an ongoing authority granted by the client to their adviser allowing the adviser to perform the following activities:</p> <ol style="list-style-type: none">1. Move money between the client's accounts at a single financial institution;2. Issue checks payable to the account holder; and3. Wire money between the client's accounts at different financial institutions. <p>Although this has not generally been considered custody due to the money remaining in the client's control, the SEC has recently indicated that this is not the case. The SEC stated that advisers can avoid triggering custody and annual surprise examination requirements only with a signed authorization form. This form must be provided by the client to the sending custodian and must list the receiving account number(s) at the other financial institution.</p>
THIRD-PARTY MONEY MOVEMENT	<p>Third-party money movement authority is considered a standing letter of authorization ("SLOA") or any other related asset transfer authorization which permits advisers to transfer funds on behalf of their clients to third parties. The client directs the qualified custodian that holds the client's account to disburse funds periodically or at a scheduled time to the third party upon future request of the adviser. This adviser is granted limited authority by the client to perform this transfer. The SEC announced in its 'no-action' letter that under the Custody Rule, SLOAs and similar asset transfer authorizations qualify as custody. However, registered investment advisers will be exempt from the annual surprise examination requirement if the involved accounts abide by the following conditions:</p> <ol style="list-style-type: none">1. The client provides written instruction to the qualified custodian with their signature, the third party's name, and either the third party's address or account number at the custodian where the transfer should be directed;

	<ol style="list-style-type: none"> 2. The client provides written authorization to the investment adviser directing transfers to the third party either periodically or as scheduled; 3. The qualified custodian performs adequate verification of the instruction and provides a transfer of funds notice to the client in a timely manner; 4. The client can terminate or adjust the instruction to their qualified custodian; 5. The investment adviser is unable to change any information about the client designated third party; 6. The investment adviser maintains records verifying that the third party is neither a related party of the investment adviser nor do they share the same address; and 7. The qualified custodian provides a written initial and annual notice confirming the instruction.
<p>WHAT DOES THIS MEAN FOR ME?</p>	<p>The SEC has not specified a deadline by which advisers and custodians need to make any necessary changes. However, they do expect advisers and custodians to make a good faith effort to comply with these requirements. Advisers are encouraged to review their role in all client accounts and identify potential triggers of custody. Advisers should also review the policies and procedures of their clients' qualified custodians and how they address activities that bring about Custody Rule requirements.</p>

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Sources:

<http://cs1.schwab.com/track?type=click&enid=ZWFzPTYmbXNpZD0xJmF1aWQ9MzU0NjAxMzMmbWFpbGluZ2lkPTE0OTEyJm1lc3NhZ2VpZD0xNTYzJmRhdGFiYXNlaWQ9MTkwNyZzZXJpYWw9MTAwNjY1MjE5JmVtYWlsaWQ9RIJBTksuV0FUU09OQEZBSVJWSUVXSU5WRVNULkNPTSZ1c2VyaWQ9Y2FtcG4wMjE1NjkyMTEyNDU1YmFjbXl0aG4tMmFpYWVhbnBkeGZkbCZ0YXJnZXRpZD0mbW49NTUzMCZmbD0mbXZpZD0mZXh0cmE9JiYm&&FAQ&&http://advisorservices.schwab.com/public/file/P-9946015>