

From: IARules [mailto:IARules@SEC.GOV]
Sent: Wednesday, January 13, 2010 1:02 PM
To: Keith Marks
Subject: RE: Custody Rule Question

Dear Mr. Marks,

If the client completes and signs the custodial account documents and as a result, has such account opening information, the adviser does not need to send the notice. This requirement applies where an adviser has power of attorney to open a custodial account on behalf of the client.

Regards

Office of Investment Adviser Regulation

From: Keith Marks [mailto:kmarks@ascendantcompliance.com]
Sent: Monday, January 11, 2010 2:39 PM
To: IARules
Subject: Custody Rule Question

Hello,

The Custody Rule has long had language as follows, or substantially similar:

(2) Notice to clients. If you open an account with a qualified custodian on your client's behalf, either under the client's name or under your name as agent, you notify the client in writing of the qualified custodian's name, address, and the manner in which the funds or securities are maintained, promptly when the account is opened and following any changes to this information.

Could you provide some context about what it exactly means for an adviser to open an account on a client's behalf? Advisory clients typically complete and sign custodial paperwork themselves. Does this notification requirement apply in that situation? For example, when a client completes account paperwork for a Schwab, Fidelity, etc. account, is the adviser required to provide the client with notification in addition to the completion of the account form?

Thank you.

Keith Marks
Ascendant Compliance Management
16 Conklin Street, Salisbury CT 06068
Telephone (860) 435 2255 ext 103
