

## Mitigating RIA Custody Resulting from Standing Letters of Authorization

Trust Company of America has implemented procedures to comply with the notice issued by the SEC earlier this year – click the accompanying [SEC February 2017 Notice](#).

This notice requires both RIAs and custodians to implement procedures for third party distributions requested from the advisor on behalf of the client. RIAs can and do make available the Advisor Authorization for Distributions form to account owners granting authorization to their advisor to request certain types of distributions from their accounts. This form enables clients to include banking information for outgoing ACH and wire requests (third party check requests are not supported) allowing their advisor to make requests on their behalf.

The SEC notice outlines specific requirements for those distributions that are being sent to a third party. A third party is typically considered to be a party with a different registration from the TCA account registration (a Trust sending a distribution to the trustee and a Corporation sending a distribution to an officer are a few situations that are considered to be third party distributions). TCA does not consider a distribution from an individual registered account to a joint banking account that includes the same individual name (or a joint account to an individual banking account that includes one of the joint names) to be a third party distribution.

TCA will take the following actions beginning October 2, 2017.

- A confirmation letter will be sent to the account owner upon receipt a of new Advisor Authorization for Distributions forms that include banking information for a third party.
- TCA will send a notification to the account owner when the RIA has initiated a distribution on their behalf and the wire/ACH has been issued.
- A notification will be sent to the account owner on an annual basis if they have an Advisor Authorization for Distribution form on file that includes banking information to a third party.
- Until we have defined the population of Advisor Authorization for Distributions forms that include banking information for a third party, TCA will:
  - Send a notification to ALL account owners with Advisor Authorization for Distributions after a distribution has been made from their account
  - Send an annual notification to ALL account owners that completed the Advisor Authorization for Distribution form that we have on file.

We have outlined the conditions of the SEC notice below along with the TCA procedures that will be followed:

|   | No Action Condition  | TCA Processes or Proposed Processes  |
|---|--|--|
| 1 | The client provides an instruction to the qualified custodian, in writing, that includes the client's signature, the third party's name, and either the third party's address or the third party's account | <b>TCA currently supports this requirement.</b> The Advisor Authorization for Distributions form requires the account holder include the name on the bank account receiving the distribution. The original authorization |

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|   | number at a custodian to which the transfer should be directed.   | and all changes to banking information require the account holders' signature.   |
| 2 | The client authorizes the investment advisor, in writing, either on the qualified custodian's form or separately, to direct transfers to the third party either on a specified schedule or from time to time.   | <b>TCA currently supports this requirement.</b> The Advisor Authorization for Distributions form, which is signed by the account holder, provides this authorization.  |
| 3 | The client's qualified custodian performs appropriate verification of the instruction, such as a signature review or other method to verify the client's authorization, and provides a transfer of funds notice to the client promptly after each transfer. | Beginning with distributions processed on October 1, 2017, TCA will send a transfer of funds notice to the account holder when a distribution is processed for which we have an Advisor Authorization for Distributions form on file.                            |
| 4 | The client has the ability to terminate or change the instruction to the client's qualified custodian.  | <b>TCA currently supports this requirement.</b> The account holders has the authority to terminate or change the instructions at any time by submitting a new form signed by the account holder.   |
| 5 | The investment advisor has no authority or ability to designate or change the identity of the third party, the address, or any other information about the third party contained in the client's instruction.   | <b>TCA currently supports this requirement.</b> The information contained on the Advisor Authorization for Distribution can only be changed by the account holder in writing.  |
| 6 | The investment advisor maintains records showing that the third party is not a related party of the investment advisor or located at the same address as the investment advisor.  | This is the responsibility of the investment advisor and – future enhancements will help the advisor maintain this information.  |
| 7 | The client's qualified custodian sends the client, in writing, an initial notice confirming the instruction and an annual notice reconfirming the instruction.  | Beginning October 1, 2017, all new Advisor Authorization for Distributions forms authorizing distributions to third parties will be sent a notice confirming the instructions. Going forward TCA will send an annual notification reconfirming the instructions. |

Advisors will need to determine what is considered to be a third party distribution and make appropriate changes to their procedures if their determination is different from that of TCA.

As we continue to work through and refine this implementation, please contact your relationship manager with any questions and feedback you may have.