



**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION - SECURITIES
DIVISION JOHN O. PASTORE COMPLEX - BUILDING 68-2
1511 PONTIAC AVENUE, CRANSTON RI 02920**

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The Division has received numerous inquiries regarding its position on Standing Letters of Authorization (“SLOA”) arrangements established by a client with a qualified custodian. The Division follows the position adopted by the United States Securities Exchange Commission (SEC) in its February 21, 2017 No Action Letter to the Investment Adviser Association, with the exception that of the SEC require state-licensed investment advisers to disclose custody, for purposes of Form ADV Part 1A, Item 9 and Part 2A, Item 15, if the adviser acts pursuant to a standing letter of instruction or other similar asset transfer authorization arrangement established with a client and a qualified custodian. The state of Rhode Island does **not** have this requirement.

Custody is defined in Under Rule 206(4)-2 of the Investment Advisers Act of 1940 (“Investment Advisers Act”). “Custody” means “holding, directly or indirectly, client funds or securities, or having any authority to obtain possession of them.” Custody includes “any arrangement, including a general power of attorney, under which the investment adviser or investment adviser representative are authorized or permitted to withdraw client funds or securities maintained with a custodian upon the investment adviser’s or investment adviser representative’s instruction to the custodian.”

Consistent with the SEC’s position stated in the Feb. 21, 2017 No Action Letter at footnote [1], the Division also takes the position that a SLOA arrangement where “the investment adviser does not have discretion as to the amount, payee, and timing of transfers under a SLOA would not implicate the custody rule.”

Rhode Island state-licensed investment advisers are encouraged to meet the seven SLOA conditions set forth in the Feb. 21, 2017 No Action Letter, as the Division believes doing so is a best practice. The Division further acknowledges that some advisers may be required to follow these conditions as a requirement to do business with their custodian. The seven conditions are as follows:

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 number at a custodian to which the transfer should be directed.
2. The client authorizes the investment adviser, 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.
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.
4. The client has the ability to terminate or change the instruction to the client's qualified custodian.
5. The investment adviser 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.
6. The investment adviser maintains records showing that the third party is not a related party of the investment adviser or located at the same address as the investment adviser.
7. The client's qualified custodian sends the client, in writing, an initial notice confirming the instruction and an annual notice reconfirming the instruction.