

[Search \(/search\)](#)[.\(\)](#)[\\_ \(http://www.facebook.com/ThinkAdvisor\)](http://www.facebook.com/ThinkAdvisor)[promoCode=TA:LIMITED&refDomain=store.thinka](#)[\\_ \(http://www.twitter.com/ThinkAdvisor\)](http://www.twitter.com/ThinkAdvisor)[PROMOCODE=TA:LIMITED&REFDOMAIN=STORE](#)[\(https://www.linkedin.com/company/25027484/\)](https://www.linkedin.com/company/25027484/)[INVESTMENT PORTFOLIO > \(/INVESTMENT-PORTFOLIO/\)](#) [WEALTH MANAGEMENT > \(/WEALTH-MANAGEMENT/\)](#) [RETIREMENT PLANNING > \(/RETIREMENT/\)](#)[News \(/news/\)](#)

# SEC Releases Another Updated FAQ on Custody Rule

By [Melanie Waddell \(/author/profile/Melanie Waddell/\)](#) | June 25, 2018 at 05:11 PM[f](#)[in](#)[t](#)[G+](#)[\(http://www.thinkadvisor.com/2018/06/25/sec-issues-updated-faq-on-custody-rule/\)](#)

SEC headquarters in Washington. (Photo: National Law Journal)

The Securities and Exchange Commission has issued another **frequently-asked-questions guidance**

**(<https://www.sec.gov/divisions/investment/imannouncements/im-info-2018-01.pdf>)** on the custody rule, with the agency's Investment Management division seeking to clarify, among other issues, previous guidance on inadvertent custody.

New to this custody rule FAQ – which Cipperman Compliance Services argues has been updated by the SEC dozens of times – are FAQs regarding the “Definition of Custody; Scope of the Rule” section: Question II.11, and Question II.12.

As Cipperman, an independent firm offering regulatory compliance services, explains, the updated FAQ clarifies that an advisor that recommends a third-party custodian will be deemed to have custody of client assets where the custodial agreement allows the advisor to instruct the custodian to disburse or transfer funds or securities, even if the advisor does not know the contents of the custody agreement.

“However, if the advisor did not recommend, request or require the third-party custodian, the advisor will not have inadvertent custody that will require meeting the several elements of the custody rule (206(4)-2), including the surprise examination, notwithstanding the terms of the custody agreement,” Cipperman said.

The Investment Adviser Association, in commenting on the FAQ, added that while the new FAQs represent important progress, the SEC staff continues to work on clarifying another aspect of the February 2017 Guidance Update on Inadvertent Custody involving the staff views on how the authorized trading exception under the custody rule relates to instruments that do not settle on a “delivery versus payment” basis.

With “well over” 50 FAQs about the custody rule, “perhaps the SEC will acknowledge that it needs to re-write the rule” rather than continue to issue FAQs, Cipperman opines.

[f SHARE ON FACEBOOK](#)

[t SHARE ON TWITTER](#)

## Melanie Waddell

Melanie is Washington Bureau Chief, Investment Advisory Group. She also covers regulatory and compliance issues and writes The Playing Field column and Human Capital briefing. Reach her at [mwaddell@alm.com](mailto:mwaddell@alm.com). On twitter: [@Think\\_MelanieW](https://twitter.com/Think_MelanieW)



[./author/profile/Melanie Waddell/](/author/profile/Melanie Waddell/)

More from this author › [./author/profile/Melanie Waddell/](/author/profile/Melanie Waddell/)

## Dig Deeper

[RIA News \(/Practice-Management/Ria-News/\)](/Practice-Management/Ria-News/)

[Legal & Compliance \(/Practice-Management/Legal-Compliance/\)](/Practice-Management/Legal-Compliance/)

## Trending Stories

- 1 [25 Worst Paying College Majors: 2018 \(/2018/06/06/25-worst-paying-college-majors-2018/\)](/2018/06/06/25-worst-paying-college-majors-2018/)
- 2 [10 Worst States for Military Retirees: 2018 \(/2018/05/25/10-worst-states-for-military-retirees-2018/\)](/2018/05/25/10-worst-states-for-military-retirees-2018/)
- 3 [10 Best States for Military Retirees: 2018 \(/2018/05/25/10-best-states-for-military-retirees-2018/\)](/2018/05/25/10-best-states-for-military-retirees-2018/)
- 4 [30 Best Paying College Majors: 2018 \(/2018/05/31/30-best-paying-college-majors-2018/\)](/2018/05/31/30-best-paying-college-majors-2018/)

- 5 [Top 15 Cities Where Retiree Can Live Longest on \\$1 Mill \(/2018/04/12/top-15-cities-where-retirees-can-live-longest-on-1/\)](https://www.thinkadvisor.com/2018/04/12/top-15-cities-where-retirees-can-live-longest-on-1/)

## Recommended Stories

### **Goldman, Citi Hunker Down as Trade War Hits Emerging Markets** (<https://www.thinkadvisor.com/2018/06/25/goldman-citi-hunker-down-as-trade-war-hits-emergin/>)

ALEX NICHOLSON, NETTY ISMAIL AND BEN BARTENSTEIN | JUNE 25, 2018

Also, Morgan Stanley lowered its recommendation for emerging market assets, citing the risk of a stronger U.S. dollar and ballooning trade threats.

### **The 7 Deadly Sins of Fee-Based Advisors** (<https://www.thinkadvisor.com/2018/06/22/the-7-deadly-sins-of-fee-based-advisors/>)

BRYCE SANDERS | JUNE 22, 2018

Committing these sins can send clients fleeing into the arms of your competitors.

## Resource Center

(<http://thinkadvisor.tradepub.com>)  
WHITE PAPER

SPONSORED BY LPL FINANCIAL  
**The Advisor's Guide for Help Clients Weather Market Vola**  
(<http://thinkadvisor.tradepub>)

Learn actionable strategies you ca reassure and reinforce your value uncertain times.

[Browse More Resources > \(/resources/\)](#)

(<http://thinkadvisor.tradepub.com>)  
GUIDE

SPONSORED BY SMARSH  
**The Field Guide to Recordke Worst Practices**  
(<http://thinkadvisor.tradepub>)

It's easier to just close your eyes to risks modern technologies can cre you must not let your firm contin follow risky routines.

[Browse More Resources > \(/resources/\)](#)

(<http://thinkadvisor.tradepub.com>)  
WHITE PAPER

SPONSORED BY AMERICAN PORTFOLIOS  
**Modifying Investor Behavior: Advisors Can Protect Clients Their Worst Instincts**  
(<http://thinkadvisor.tradepub>)

Get three key strategies to help ke clients from harming their own fin futures.

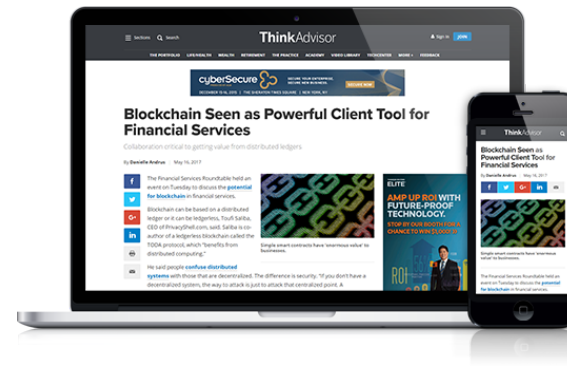
[Browse More Resources > \(/resources/\)](#)

# ThinkAdvisor

Don't miss crucial news and insights you need to make informed investment advisory decisions. Join

## ThinkAdvisor.com now!

- Free unlimited access to ThinkAdvisor.com which provides advisors, like you, with comprehensive coverage of the products, services and trends necessary to guide your clients in making critical wealth, health and life decisions.
- Exclusive discounts on ALM and ThinkAdvisor events.
- Access to other award-winning ALM websites including TreasuryandRisk.com and Law.com.



**Join ThinkAdvisor** [. \(https://store.law.com/registration/default.aspx?](https://store.law.com/registration/default.aspx?promoCode=TA:LIMITED&source=https://www.thinkadvisor.com/2018/06/25/sec-issues-updated-faq-on-custody-rule/)

[promoCode=TA:LIMITED&source=https://www.thinkadvisor.com/2018/06/25/sec-issues-updated-faq-on-custody-rule/](https://store.law.com/registration/default.aspx?promoCode=TA:LIMITED&source=https://www.thinkadvisor.com/2018/06/25/sec-issues-updated-faq-on-custody-rule/))

Already have an account? [Sign In Now \(https://store.law.com/registration/login.aspx?promoCode=TA:LIMITED&source=https://www.thinkadvisor.com/2018/06/25/sec-issues-updated-faq-on-custody-rule/\)](https://store.law.com/registration/login.aspx?promoCode=TA:LIMITED&source=https://www.thinkadvisor.com/2018/06/25/sec-issues-updated-faq-on-custody-rule/)

ThinkAdvisor 

**FOLLOW US ON**



[\(http://www.facebook.com/ThinkAdvisor/\)](http://www.facebook.com/ThinkAdvisor/)



[\(http://www.twitter.com/ThinkAdvisor/\)](http://www.twitter.com/ThinkAdvisor/)



[\(https://www.linkedin.com/company/250000000/\)](https://www.linkedin.com/company/250000000/)

[Investment Portfolio \(/investment-portfolio/\)](#) / [Wealth Management \(/wealth-management/\)](#) / [Retirement Planning \(/retirement/\)](#)  
/ [Life/Health Insurance \(/life-health/\)](#) / [Practice Management \(/practice-management/\)](#) / [TechCenter \(/tech-center/\)](#) / [More \(/sitemap/\)](#)

[About ThinkAdvisor \(/static/about-us/\)](#) / [Contact Us \(/static/contact-us/\)](#) / [Site Map \(/sitemap/\)](#) / [Advertise With Us \(/static/advertise-with-us/\)](#)  
/ [Terms of Service \(https://www.alm.com/terms-of-use-summit/\)](https://www.alm.com/terms-of-use-summit/) / [Privacy Policy - Updated \(https://www.alm.com/privacy-summit/\)](https://www.alm.com/privacy-summit/)



Copyright © 2018 ALM Media Properties, LLC. All Rights Reserved.