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4/26/18

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 18-08

Dear Ms. Mitchell,

I would like to thank you for the opportunity to provide feedback on the proposed Rule, which I support for the reasons outlined in the Notice itself and cited by some of the other commenters. Having said that, I would like to voice my concern over the following paragraph found on p. 6 of the Notice:

For example, after conducting the required risk assessment of an investment-related activity, a member may approve a registered person to act as a registered investment adviser through an unaffiliated, third-party IA; however, the member also may condition that approval on the IA's custody of its clients' advisory assets with the member. In this example, the proposed rule would require the member to reasonably supervise the registered person's adherence to that condition, but the member would not be required by the rule to otherwise supervise the IA activity.

A recent *Investment News* article that announced the proposed Rule quoted Brian Hamburger, president of MarketCounsel, as saying: "IBDs have been charging exorbitant fees for supervisory services that they weren't performing. It is essentially a royalty on the independent RIA business." In my opinion, formed on the basis of being affiliated with a number of IBDs since going independent in 1994, the paragraph cited above from the Notice would make things potentially much WORSE, for now BDs would be officially absolved from supervisory responsibility, but could nonetheless force independent IAs to utilize the BD's custody platform. This could potentially serve to not only perpetuate the aforementioned ill-deserved royalty, but also result in additional costs and/ or even jeopardize the independent IA's best-execution, fiduciary and other duties owed under SEC and state regulations. For instance:

- The BD's platform could levy transaction costs greater than those charged by other custodians;
- The BD's platform could require the payment of additional fees not levied by other custodians (account opening, closure, maintenance, etc.);
- The BD's platform could restrict available investment choices, compared to those offered by other custodians;
- The BD's platform could offer research, technology and support inferior to other custodians;

- The BD's platform could lack the least expensive "institutional" mutual fund share classes;
- The BD's platform could require quotas for proprietary investment, banking or lending products.

In closing, while I agree that BDs should have the right to decide whether or not to allow their associated/ registered persons to spend time on activities other than the BD's core business, I strongly believe that approval should not be conditioned on restricting the choice of custodian so as to benefit the BD's bottom line at the expense of the independent IA – and ultimately its clients – especially when the BD is relieved of supervisory duty by the proposed Rule.

Respectfully,

Peter T. Palion, CFP®
President
Master Plan Advisory, Inc.