

From: Aaron Westlund [mailto: [REDACTED]]
Sent: Thursday, March 03, 2011 12:00 AM
To: Kenneth L. Hojnacki; Kelvin Blake; derosiaL@michigan.gov; dfinnigan@ilsos.net; Hugo Mayer; Paul Schwartz; David Smith; Jackie Walter; Joseph Brady
Cc: 'Eric Brown'; 'Robert Ho'; Scott Poepping; Scott Dowling; 'Kevin Lennil'; Suzan Robertson; Peter Mafteiu; 'Ashwani Sirohi'; amichaeladams@[REDACTED]
Subject: NASAA Proposed Model Custody Rule -- Comment Letter Submission

Dear Mr. Hojnacki and members of the Project Group,

Please find attached a comment letter responding to your request for public comment on the proposed model rules that NASAA released on February 17, 2011. This comment letter specifically addresses the proposed model custody rule, and is submitted by the principals of Washington State advisers to pooled funds indicated on page 8 of the letter and copied hereto. This is only a subset of fund managers in Washington state who happen to have become acquainted with each other recently.

We feel compelled to point out that no other fund advisers, legal advisers or others that we have contacted in connection with this matter have been aware of this public comment solicitation on this significant proposed revision to your model custody rule. We are aware of a number of advisers who, once informed, would have liked to provide comment but who were simply unable to complete their necessary diligence and clearance reviews before the comment period closed.

Thus, whether due to the expedited nature of the comment period, the manner in which the comment solicitation was communicated, or other factors, we are seriously concerned that this proposal has not received the attention and comments from industry participants that it deserves, and which the Project Group deserves the benefit of.

Consider, on the one hand, that many larger transitioning advisers may not yet be familiar with their own state rules and rule-making process, let alone the NASAA model rulemaking that can significantly inform state rules for a large number of states and which may affect their funds in ways they have not yet envisioned. Consider, on the other hand, that many historically smaller advisers either haven't had the resources or have considered themselves too small to have a meaningful voice in their own state rule-making, let alone NASAA model rule-making.

As a result, and based on various last-minute conversations we have had with other fund advisers, both small and transitioning, and their professional advisers, we expect that our letter gives voice to a great number of current and transitioning state-covered advisers that you unfortunately will not hear from by today. None that we have talked with disagreed with our position on a critical provision of the proposed rule. Many could not believe that a provision so fundamentally threatening to the interests of successful private funds and their investors was even being contemplated.

We know we cannot speak directly for others, but we believe you deserve this input regarding what we perceive to be, in part, the effect of an expedited rule-making proposal that does not appear to have been widely communicated through the various state securities administrators to their regulated fund advisers or other affected parties.

Kind regards,
Aaron

P.S. Please confirm receipt of this letter by email at your earliest convenience. It is submitted on the evening of Wednesday, March 2nd, Eastern time.