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Via Electronic Mail: rule-comments@sec.gov

Vanessa A. Countryman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Notice of Proposed Rulemaking on Safeguarding Advisory Client Assets (File No. S7-04-23)

Dear Ms. Countryman:

Northern Trust Corporation ("Northern Trust" or the "firm") welcomes the opportunity to provide comments to the Securities and Exchange Commission ("Commission") on its proposed rule "Safeguarding Advisory Client Assets," published March 9, 2023 (the "Proposed Rule").[1] The Proposed Rule would significantly expand and rework the current custody rule with far-reaching impacts, both inside and outside of the US.[2] It would fundamentally alter the relationship between a U.S. registered investment adviser ("RIA") and a qualified custodian, in relation to the assets of an RIA client,[3] and the specific requirements that apply to qualified custodians, particularly those that are banks.

Globally, Northern Trust's direct and indirect subsidiaries include, among others, a bank with $11 trillion in assets under custody and a RIA with $1.3 trillion in assets under management. Northern Trust's concerns with the Proposed Rule are well articulated by other industry commentators, specifically within letters submitted by the American Bankers Association ("ABA"), the ABA's Securities Association, the Bank Policy Institute, the Financial Services Forum, the Association of Global Custodians, Association of Financial Markets in Europe, and the Securities Industry and Financial Markets Association, among others, and Northern Trust confirms its support for these submissions.

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1 SEC Release No. IA-6240, 88 FR 14,672 (March 9, 2023).

2 *See* SEC, Custody of funds or securities of clients by investment advisers, 17 C.F.R. § 275.206(4)-2 (2023).

3 When the term "client" is used in this letter, we refer to the investor whose assets are held in custody by the custodian bank, not the RIA that has been engaged by the client to manage those assets.

Northern Trust appreciates and supports the need for greater clarity concerning the regulation of the custody of digital assets. But the Proposed Rule goes far beyond that and (a) clashes with bank regulatory principles by unfairly favoring RIA client depositors over other depositor types; (b) increases investor costs by shifting major economic and contractual burdens from RIAs to custodians; (c) limits investment opportunities in asset classes that are fundamentally incompatible with the traditional custody model; (d) poses challenges to U.S. RIAs' services to investors abroad, including complicating the establishment of parallel U.S./non-U.S. investment structures; (e) attempts to achieve the above with insufficient, and unquantified, benefits to offset these downsides; and (f) significantly underestimates implementation and repapering timelines.

Northern Trust embraces and adopts these comments offered by custody bank peers and industry groups, but it wishes to further spotlight another issue. The Proposed Rule's requirement for cash segregation impedes another critical Commission aim: to improve and hasten the securities trade settlement process, and to reduce its costs, for investors' benefit.

RIA and investor needs are increasingly sophisticated. Demands for active cash management and same-day funds availability have accompanied increasingly complex investment strategies and expanding global markets. Numerous market participants have a hand in the trade settlement and entitlement distribution process, creating natural friction. Often, a client's trade must settle despite the client lacking the precise amount of requisite funds at the moment of settlement. At the same time, markets across the globe are shortening required settlement cycles, tightening existing deadlines for trade instructions and funding obligations.

To address these needs, custody banks provide clients with intraday and overnight advances and contractual settlement. These advances help clients settle foreign exchange and securities transactions on their contractual settlement dates. They are the grease that the machinery of the trade settlement process needs to operate efficiently for clients. Without this liquidity, markets would become awash in costly and disruptive trade settlement delays, or trade fails, which can result in penalties or censure in some markets.

It will not be possible for custody banks to provide these types of intraday and overnight advances or contractual settlement if, as the Proposed Rule requires, cash must be segregated by client. Instead, such unused cash will be siloed for use by the affected client, leaving custody banks with insufficient liquidity to provide these necessary advances. The Commission's important T+1 settlement initiative will amplify the risk of settlement failures if clients no longer have ready access to such advances. Clients would instead need to obtain more expensive, and more volumetrically imprecise, sources of financing to continue to ensure smooth and timely settlements.

We urge the Commission to consider the importance of maintaining, rather than disrupting, these vital and inexpensive services, which serve both RIA clients and the securities markets at large.

Respectfully submitted,

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