



## Understanding the Role of a Directed IRA Custodian

A directed IRA custodian serves as a passive, non-discretionary custodian of customer-directed, also known as self-directed, individual retirement accounts (“IRAs”), as IRA is defined in Section 408 of the Internal Revenue Code as amended. In its role as a passive custodian, a directed IRA custodian solicits no investments, and provides no advice or recommendations to customers with regard to investments, acquired by or held in the IRAs. A directed IRA custodian has no authority to take any action with regard to the investments acquired by or held in the IRAs without the express direction of the IRA owner.

A directed IRA custodian occupies a unique position in the financial services industry. It is not a broker, or an investment advisor. It does not sell investments, determine suitability or provide due diligence on investments for the IRA owner. What the directed IRA custodian does is execute investment directions from the IRA owner, and perform the many custodial and administrative duties that are necessary to preserve the tax-deferred status of an IRA and otherwise administer the account and custody the assets.

A careful reading of the IRA agreement provides you with the duties of the Custodian and the limitations on its responsibilities. The bullet points and FAQs below are designed to help you understand the role of a directed IRA custodian.

### What a Directed Custodian DOES NOT DO

- Act as an investment advisor, tax advisor or legal advisor
- Provide investment, tax or legal advice
- Recommend or endorse investments– agreeing to custody an investment is not an endorsement or approval of the investment
- Recommend or endorse investment advisors– working with an investment advisor selected by the account owner is not an endorsement or approval of the investment advisor
- Determine the fair market value of account investments– reporting of the valuation submitted to the Custodian by the investment sponsor does not constitute a representation by the Custodian that the reported value is accurate
- Perform due diligence for the account owner on any investment or investment sponsor
- Determine the suitability of any investment for the IRA or the account owner
- Determine whether a transaction would be deemed a Prohibited Transaction as outlined in Internal Revenue Code section 4975 (26 USC § 4975)

## What a Directed Custodian DOES

- Maintains IRA agreement and forms subject to the Rules and Regulations of the Internal Revenue Service and the U.S. Department of Labor
- Processes applications to establish IRAs
- Implements and follows an Anti-Money Laundering (“AML”) program, as well as policies and procedures to comply with the Bank Secrecy Act (“BSA”), the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (“US PATRIOT Act”), Financial Crimes Enforcement Network (“FinCEN”) guidelines, the office of Foreign Asset Control (“OFAC”) regulations, and Anti-Terrorist Financing (“ATF”) laws and regulations
- Accepts, documents, and records contributions, transfers and rollovers from other IRAs/retirement plans
- Implements technology and procedures to protect the privacy of account owner and account data
- Executes account owners’ investment instructions as directed by sending funds from the IRA to the client selected investments
- Gathers, executes, and holds documents such as subscription agreements, operating agreements, offering memorandum, promissory notes, certificates, and other evidences of ownership of investments by the IRA
- Receives and records income from the assets held in the IRA
- Executes account owners’ instructions to sell, withdraw from or liquidate investments held in the IRA
- Coordinates with investment sponsors the purchase and sale/liquidation of investments as directed by account owner
- Facilitates, as directed by the account owner, distributions from the IRA to the account owner or transfers to other IRAs or retirement plans
- Performs tax reporting of IRS Forms 1099-R and 5498 as required by the IRS
- Provides IRA statements to the account owner which includes transactions and cash and assets held in the account
- Complies with all applicable State and/or Federal Regulations governing IRA Custodians

## FAQs

### 1. Does a Directed Custodian approve an account owner’s investment decisions or evaluate an account owner’s investment risk?

No. Directed Custodians do not endorse or approve an account owner’s investment decisions or evaluate an account owner’s investment risk. It is **not** the responsibility of a Directed Custodian to:

- 1) Provide investment analysis or recommendations,
- 2) Determine investment suitability or investment risk, or
- 3) Perform due diligence concerning an accountholder’s investment decisions.

Account owners are strongly encouraged to make use of legal, tax and financial advisors to support these efforts.

### 2. What is my role as an account owner?

The account owner is responsible for:

- 1) Finding and selecting a Custodian for your IRA or retirement plan,
- 2) Selecting, managing, retaining and disposing of any investment held in your account or

- plan, based on your risk tolerance and individual financial situation,
- 3) Seeking appropriate tax or legal counsel to determine whether a proposed transaction would be deemed a Prohibited Transaction as outlined in Internal Revenue Code section 4975 (26 USC § 4975),
  - 4) Engaging in proper due diligence for those investments and the principals involved, taking into account market fluctuations and economic conditions among others factors,
  - 5) Monitoring your account and the investments made within that account on an ongoing basis, including the investment performance, and
  - 6) Notifying your Custodian regarding any unusual or unexplained investment activity or if any delays are experienced in receiving payments or information promised by the investment sponsor/issuer, and
  - 7) Understanding that certain investments in operating companies and debt-financed real estate may generate Unrelated Business Taxable Income or Unrelated Debt Financed Income and the account owner should consult with their tax professional to determine if any tax is due, and if so prepare the Form 990-T and instruct the Custodian to pay the tax from the IRA.

### **3. How do I know if my investment advisor/broker/salesperson is registered?**

Ask the advisor/broker/salesperson how he/she is registered for regulatory purposes and verify their disciplinary history by using the regulatory website(s) and link(s) shown below:

- 1) [FINRA BrokerCheck](#),
- 2) [SEC Investment Adviser Search](#),
- 3) [National Futures Association \(NFA\) BASIC Search](#)
- 4) Contact the appropriate [state securities regulators](#)

Also be aware of possible conflicts of interest with advice you may receive since advisors/brokers/salespeople often get paid a commission on your investment.

### **4. Does a Directed Custodian provide valuations for my investments which are not publicly traded?**

No. A Directed Custodian only reports (and does not determine) the valuations it receives from the investment sponsor/issuer (or the investment's agents) or an independent valuation submitted by the account owner, and does not guarantee the accuracy of any valuation it reports. As such, the account owner should not rely on valuations reported or delays in reporting valuations in making investment decisions. The account owner should obtain valuation and other information directly from the investment sponsor or other sources in making their investment decisions.

### **5. Where can I learn more about the rules that govern my IRA or retirement plan?**

General information on the IRS rules regarding IRAs can be found in [IRS Publication 590](#), and for business retirement plans in [IRS Publication 560](#). For more in-depth information on Prohibited Transactions, you may wish to read [IRC 4975](#).

Because important financial and tax decisions are involved, account owners are strongly encouraged to seek help from legal, tax and financial advisors to support these efforts.

## **Additional Resources and Links**

The following RITA-sponsored link contains a list of helpful resources and information:

**Retirement Industry Trust Association (RITA) Blog:**  
<http://www.self-directed-retirement.org/investor-resources/>