July 13, 2009

To whom it may concern,

I am an FPA member and SEC-registered investment adviser.

I am opposed to the requirement in the proposed amendments to the custody rule that would subject investment advisers to a surprise audit by an accounting firm.

To my knowledge, the recent Ponzi schemes making headlines have had nothing to do with fees being deducted by investment advisers from accounts held by qualified custodians. In addition, I see no evidence that there have been systemic problems in this area. Reactionary rules and regulations added on to business models different from those that caused investor harm are unnecessary, costly and burdensome - particularly for small, independent investment advisers.

In fact, the SEC has already resolved one of the major problems with the custody rule by eliminating a loophole from registration for certain accounting firms with the PCAOB. This loophole was the one that Madoff's accountant used to avoid detection of its phony auditing practices.

Clearly, if the SEC feels risk should be further minimized in this arena then reconsider alternate methods for screening RIAs. The new surprise audit requirement will add additional costs to our business that will ultimately be passed on to our clients. They chose to work with our firm because of the transparency in our business model, so why make them pay for the dishonesty of others?

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