July 22, 2009

This email is written in **opposition** to the Securities and Exchange Commission's recently proposed requirement for federally registered investment advisers mandating an annual surprise audit of all discretionary accounts of an investment adviser by an independent public accountant. As I understand, the SEC considers automatic deduction of client fees from these discretionary accounts to be 'custody' of client assets, thereby requiring special attention in the wake of the Madoff scandal.

I am a client of an investment adviser who uses TDAmeritrade as the custodian of my accounts. I have authorized automatic fee withdrawals directly from the managed accounts to simplify my bookkeeping and provide me with a clear accounting of all fees and their impact on the growth of my account.

Because of this relationship, I understand the SEC is proposing that my adviser will be required to undergo a surprise audit annually by an independent accounting firm at the adviser's expense. Since this will inevitably be passed on to me in the form of higher fees, I cannot help but wonder why the SEC sees this as advantageous to me as an investor.

(1) There have been no frauds that I am aware of with respect to fee withdrawals from a custodian. In fact, I see holding my assets at an independent custodian as the most prudent way of safeguarding my assets from fraud. Am I now to be penalized with additional costs for acting prudently? What do you see this requirement accomplishing other than imposing unnecessary costs on investors who are struggling as it is?

(2) I am perfectly capable of reviewing my own statements and ascertaining that the correct fee has been withdraw. In fact, I think I can assure you that I am far more diligent than any outside auditor will ever be and I do so on a quarterly basis. In addition, the custodian is applying the fee withdrawals based on authorization I have signed. I believe the custodian already has legal responsibility to assure fees are withdrawn in accordance with the authorization.

(3) The frauds that have happened have occurred because the SEC has been lax in enforcing laws and regulations already in place. Rather than trying to pass responsibility on to an independent auditor, to be paid for by the adviser he is auditing, your focus should be on cleaning up your own house and enforcing laws and regulations on the books.

(4) Government cost estimates for new regulations have been grossly underestimated for years. Sarbane Oxley is a prime example. Since its passage, meaningful communications from companies have dwindled to the most turgid, mealy-mouthed, non-informative documents I've ever read, while legal and accounting fees have soared.

(5) Passage of this type of regulation will undoubtedly lead to "auditing" creep as the auditor steadily expands the scope of his audit because in the face of vague regulations, overkill is much safer than prudence.

If this regulation passes, I fully expect my adviser to begin requiring direct payment of fees. It makes no sense for his firm, or for me, to bear the costs of surprise audits with nothing to uncover that is not already a part of my independent custodial statements. What will have been accomplished? Nothing but inconvenience for me as the investor.

I would encourage the SEC to rethink 'File Number S7-09-09' with respect to considering automatic fee deductions to constitute "custody" of client assets and discard this rule before it wastes more time on your part or that of the investment community.

Sincerely,

Linda Ferentchak
Morrison, Colorado