Subject: File Number S7-09-09

From:

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Ridgewood Investments LLC is a SEC registered investment advisor that has been continuously providing investment management, wealth management, and financial advisory services to a diverse base of clients, since it was founded in late 2002 We are writing to offer our comment on the proposed amendments to Rule 206(4)-2 (the "Custody Rule"), specifically the surprise audit requirement proposal.

As a firm, we are one of thousands of advisors who have provided value and guidance to our clients through both good and difficult markets. Due to the malfeasance of a small minority of advisors, it is clear that some changes to the existing system of regulations may be necessary to change or augment the protections afforded to clients under the existing system of regulations. Regulators have the difficult job of carefully weighing the costs and benefits associated with a whole host of possible alternative proposals to implement change.

In proposing new rules and oversight, the general principals to be applied should be that 1.) The new rule(s) should offer benefits that meaningfully outweigh the costs to both the regulated firms and the end consumer 2.) The new rule should make sense and be "reasonable" and 3.) The rule should not stifle the ability of new and smaller firms to continue to drive the innovation and growth that are the lifeblood of any sector (and in the aggregate) the economy as a whole 4.) The new rule should significantly advance the objective of meaningfully increasing the protections and reducing the risk of actions that could hurt clients

We believe that the proposal to mandate a surprise audit required for all RIAs that have fee withdrawal authority fails these tests in that 1.) The costs meaningfully outweigh any potential benefits 2.) The new rule is overreaching in the nature of amputating a limb when removing a potential thorn would be more appropriate 3.) If implemented, the proposal will represent a significant additional barrier to the ability for smaller firms to maintain their independence and viability under a mountain of regulation that may in the end simply stifle competition and flexibility without offering any corresponding benefits to clients 4.) Compared to alternative proposals, a "surprise audit" requirement for advisors who simply deduct "fees" periodically would do little to advance the agenda of actually protecting investors.

The main thrust of the "custody rule" is that those advisors actually controlling (i.e. holding) client assets should be held to a higher level of scrutiny. As we saw with a number of public frauds, the minority of advisors holding funds in their own name and bank account or generating client statements with no third/independent part involved may have an opportunity to abscond their client's funds. Note that in some of the large a visible fraud cases, and others like it, these advisors were required to have third-party CPA audits – with obviously limited effect in those cases.

The above type of custody (i.e. directly holding client assets) should be distinguished from firms like ours and many others that primarily work through established and reputable custodians who hold the clients assets and are themselves highly regulated and subject to audit already. Firms like ours manage accounts held by others. In general, such firms do not "handle" funds directly and in this sense do not have custody in the sense that could actually cause problems for clients.

In the many circumstances where independent third party custodians are serving as a qualified custodian maintaining our clients' accounts – these custodians deliver account statements, on at least a quarterly basis, directly to our clients. These statements identify the amount of funds and securities at the end of the period as well as all activity in our clients' accounts. As a result, our clients receive comprehensive account information directly from the qualified custodian and are able to monitor the activity in their accounts. These safekeeping measures provide our clients with the ability to sufficiently identify and detect erroneous or fraudulent transactions. In rare instances when there is an inadvertent error, clients and advisors usually identify and resolve them fairly quickly.

Since our clients' assets are held at an independent custodian, those accounts are already subject to annual audit requirements performed by an independent public accountant. As a result, mandating surprise audits of firms like ours by an independent public accountant would provide little benefit to our clients, but create large (and basically wasted) duplicative costs to RIAs.

The proposed rule changes would probably force us to absorb the excess costs (as raising fees or not deducting fees for reasons of avoiding the "custody" definition under the proposed rules are not, in our view, viable options from a practical or business point of view) which would put undue financial strain on firms like ours. Being forced to spend on a "surprise audit" threatens to divert resources and attention from other client focused activities.

In all likelihood, the money we would spend to comply with the proposed rule would divert resources that we could better spend on voluntary investor education or elective compliance and governance investments in staff and systems that would have a far greater and more positive impact on our clients than a mandatory surprise audit in cases, like ours, when we don't actually "custody" our client accounts except in a technical sense defined by the proposed rule changes.

The proposed changes to the custody rule, though they are not intended for this purpose, end up being a full employment regime for audit firms to simply come in and conduct procedures that do little to safeguard clients who are already being protected by the existing regime of transparency and independent third party custody and verification of their assets and any fees deducted.

We therefore respectfully request that the surprise audit requirement for these RIAs be withdrawn. Instead, to the extent that it is deemed necessary, we believe that certain alternative measures could be far superior to enhance investor protection even against the potential abuse of the fee withdrawal authority as follows:

> The SEC should provide clear fee guidance as to the maximum permissible advisory fee rate that an RIA can deduct through independent custodians without being subject to the "technical" definition of having custody. Most advisors charge annual fees of 0% to 2% of AUM per year. Therefore, the SEC should consider setting an upper limit (perhaps less than 5% per year) that would allow RIA firms who do not otherwise custody assets to avoid the onerous requirements of being considered a custodian simply by virtue of deducting fees representing a small % of the client assets being supervised. We would also support an additional requirement whereby RIA chief compliance officers conduct an annual custody review and submit a related certification to the SEC

If the above or a similar approach is taken, I also believe that the Custody Rule should be revised to eliminate the fee deduction authority test as a basis for establishing advisor custody. I thank you for the opportunity to comment on this matter and if it is helpful, I would be happy to attend or provide oral comments or testimony for the commissioners in a public hearing format to answer their questions or provide further insight into the impact of potential rule changes on independent SEC registered RIA firms such as ours.

Respectfully Submitted,

/s Ken Majmudar /

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