

Sirs:

I am a FPA member and a SEC registered investment advisor through Pacific West Securities.

I am ardently opposed to the requirements in the proposed amendments to the custody rule that would subject investment advisers to a surprise audit by an accounting firm as referenced by File Number S7-09-09. Specifically, I believe:

- The proposed surprise audit appears to be more of a political reaction to public criticism of the SEC and congressional pressure after the Madoff scandal than an effective regulatory response.
- The SEC already resolved one of the major problems with the custody rule, which was eliminating a loophole from registration for certain accounting firms with the PCAOB that Madoff's accountant used to avoid detection of its phony auditing practices.
- The Madoff and other Ponzi schemes resulted from a lack of aggressive enforcement by the SEC and FINRA of current rules and ignoring repeated warnings from the media and whistle blowers. The SEC should hold FINRA accountable for its shared oversight of Bernie Madoff in conducting the Ponzi scheme for decades as a broker-dealer before registering two years ago as an investment adviser.
- The Ponzi schemes uncovered by the SEC had nothing to do with fees deducted by investment advisers. As far as we are aware, there have been no systemic problems in this area and are unnecessary, costly and burdensome, particularly for small, independent investment advisers.
- The new surprise audit requirement will add additional costs to my business that will ultimately be passed on to my clients or to drive us out of business.
- In order to enhance consumer protection, I would support Congress appropriating additional resources to the SEC to hire and train additional examination staff to increase the regular audit cycle of investment advisers.

Please reconsider these knee jerk reactions to current events. You will be doing more harm than good.

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