

Florida Investment Advisers



July 28, 2009

Ms. Elizabeth M. Murphy
Secretary
United States Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File Number: S7-09-09

Dear Ms. Murphy:

I am writing on behalf of Florida Investment Advisers in response to your request for comments on the proposed amendments to the custody rule under the Investment Advisers Act. The proposed regulation requires all investment advisers with custody of client funds to have an annual surprise examination by an independent public accountant. Florida Investment Advisers opposes this requirement for investment advisers deemed to have custody only because they have permission to debit client accounts for advisory fees.

The proposed amendment seeks to protect customers from misappropriation and misuse of assets after enforcement actions were taken against several investment advisors and broker dealers. However, the misappropriation of funds in these cases did not occur because an investment advisor was able to debit client accounts for collection of fees. The risk for misappropriation of funds is less likely when a client is provided with monthly account statements directly from the custodian. The customer then has the opportunity to immediately review activity in their account and identify discrepancies. A surprise audit would not add any meaningful protection to the customer but would result in higher advisory fees as the cost of the new regulation would be passed onto the customer.

Burdening investment advisors with the cost of a surprise audit requirement seems unreasonable and unnecessary. Enforcement of current rules and regulations were and is sufficient to detect misuse of client assets. We request the SEC leave the custody rule unchanged.

Thank you for giving us the opportunity to comment on this proposal.

Sincerely,

Lori S. Nadglowski

Florida Investment Advisers