

FOOTHILL SECURITIES INCORPORATED

Investing in Your Future

Christine M. Flynn
Chief Operating Officer
& Chief Financial Officer

July 31, 2009

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

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OFFICE OF THE SECRETARY

RE: **Proposed Amendments to Rule 206(4)-2**
Release No. IA-2876
File No. S7-09-09

Dear Ms. Murphy:

Foothill Securities, Inc. appreciates the opportunity to express its views in response to the Securities and Exchange Commission's (the "Commission") request for comments on the proposed amendments to Rule 206(4)-2.

As an investment adviser registered with the SEC, under Rule 206(4)-2, we are deemed to have custody solely because we have the authority to deduct advisory fees from our clients' accounts, all of which are maintained by independent, qualified custodians, specifically, Pershing LLC, Charles Schwab, and TD Ameritrade. We strongly believe that the portion of the proposed Rule, which would require advisers with this form of custody to undergo an annual surprise audit, is completely unwarranted.

As required by current Rule 206(4)-2, the independent qualified custodian maintaining our clients' accounts delivers account statements, on at least a quarterly basis, directly to clients, identifying the amount of funds and securities in the account at the end of the month/quarter as well as all period activity in our clients' accounts including fee deductions. As a result, our clients receive comprehensive account information directly from the qualified custodian and are thus able to monitor the activity in their accounts. Furthermore, our clients agree, in writing, that our advisory fees will be deducted directly from their advisory accounts.

If these amendments were to be adopted as proposed, presumably the only thing subject to audit would be the calculation of the fee deduction. Given the simplicity of this particular exercise, why is a professional accountant required? How does the associated cost of this undertaking in any way relate to the expected benefits associated therewith? It's not clear what problem is really being addressed by this

proposal. If the real problem is one of clarity, couldn't this issue be addressed more cost effectively by simply mandating certain presentation requirements such that even the most arithmetically-challenged client could verify the fees deducted from his/her account? Moreover, how many cases of excessive fee deduction, occurring at firms subject to this very limited definition of custody, has the SEC identified that might justify the adoption of these proposed amendments?

We believe the safekeeping measures currently required by Rule 206(4)-2 provide our clients with the ability to sufficiently identify and detect erroneous or fraudulent transactions. It is also our understanding that abuses in the industry have not generally resulted solely because of arrangements whereby advisers have the authority to deduct fees from accounts maintained at qualified independent custodians. The absence of such actions supports our position that the safeguards mandated by current Rule 206(4)-2 are sufficient to deter advisers from engaging in fraudulent conduct.

Furthermore, the cost associated with an annual surprise audit would cause a financial strain on our company, the cost of which would most likely be passed on to our clients in the form of higher advisory fees, which is not in the best interests of our clients.

In addition, as we imagine would be the case with other advisers, in the event we were unable to absorb and/or pass on the costs associated with an annual surprise audit, we would have to consider eliminating the direct debit of fees and instead require clients to pay our advisory fees directly. This would require a complete revamping of operations and would increase overhead costs. More importantly, in many cases, such a change in billing practices would confuse clients and require them to reorganize their banking arrangements, thereby adversely affecting our clients.

Given that existing safeguards in place are adequate and considering the adverse effects of a mandatory surprise audit on advisers as well as clients, we respectfully request that the Commission leave current Rule 206(4)-2 intact and unchanged with respect to advisers who have custody solely because they have the authority to deduct advisory fees from client accounts.

We thank the Commission for the opportunity to comment on this matter.

Sincerely,



Christine M. Flynn
Chief Compliance Officer
Chief Operating Officer