This comment is in response to a request for comments on the regulatory flexibility analysis (RFA) published at 79 Fed. Reg. 77975 (Dec. 29, 2014). Among other rules, the Commission has invited comments on the Custody Rule, codified at 17 C.F.R. § 275.206(4)-2, and applicable to investment advisers.

We are a registered investment adviser with certain clients who have provided us with the authority to instruct qualified custodians on their behalf to withdraw or transfer assets from client accounts. We also serve as general partner or managing member to private funds. Accordingly, under the Custody Rule, we are deemed to have "custody" of those clients' assets, and thus, those assets must reside with a "qualified custodian."

We unequivocally support the facets of the Custody Rule that serve to provide investors with greater transparency and confidence. However, we have found that two aspects in particular of the Custody Rule introduce significant administrative burdens and costs and reduce investor confidence, without providing meaningful improvements in investor protection. Accordingly, we recommend two minor changes that would greatly reduce burdens and costs without reducing investor protection.

1) **The (b)(4) GAAP audit exception for pooled investment vehicles.**

Some pooled investment vehicles invest in assets, including real estate or other investment types, which are audited as a matter of common auditing practice using a tax-basis approach. This means that the (b)(4) GAAP audit exception is not available to those vehicles. Consequently, investors in those vehicles must receive quarterly statements from a qualified custodian. Because the investment vehicles have relatively long time horizons (typically several years), quarterly statements detailing the value of the client's original investment throughout the term of the investment are of limited value.

We believe that for pooled investment vehicles not susceptible to a GAAP audit, replacing quarterly custodial statements with an annual audit that is appropriately matched to the asset class would provide more meaningful information to investors.

Therefore, to help ensure that investors in pooled investment vehicles receive the most meaningful information possible, we recommend that the SEC consider extending the (b)(4) exception (specifically (b)(4)(i)) to include unqualified audits appropriate to the asset class in the pooled investment vehicle (e.g., a tax basis audit for real estate assets) and require that such audits are conducted by a PCAOB-registered accounting firm.

2) **The (a)(4) independent verification process, also known as the "surprise examination."**

We have received feedback from our clients that being required to participate in a surprise examination is a significant burden that does not yield any benefit to them. For investment advisers that do not have internal control systems to safeguard against misappropriation of client assets, such a burden may be unavoidable. However, with respect to investment advisers that have gone to great lengths to establish robust internal control systems, such advisers should be afforded the same treatment as broker-dealers that are permitted to serve as qualified custodian. Yet, under the current Custody Rule, clients of investment advisers with constructive custody of assets cannot avoid the burden of an annual surprise examination.

To reduce the burden on investors while maintaining important safeguards to protect their assets and confidence, we suggest the following modifications to the Custody Rule:

1) Investment advisers that obtain an (a)(6) internal control report should be included among the classes of entities that may serve as qualified custodians in (d)(6), and should be exempt from the independent verification process; and
2) If an investment adviser has custody of client assets, but does not obtain an internal control report, it may still use the independent verification process.

Under the current rule, a joint broker-dealer/investment adviser with an internal control report may serve as its own qualified custodian. We believe that an investment adviser that obtains an (a)(6) internal control report should be afforded the same status. Because a self-custodying entity must reconcile to an outside custodian per (a)(6)(ii)(B) regardless, we believe that the modifications we propose would present no greater risk of misappropriation of client assets than is presented by the Custody Rule in its current form.