Eagle
Strategies
LLC
A REGISTERED INVESTMENT ADVISER

July 27, 2009

VIA ELECTRONIC MAIL

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

Re: File No. S7-09-09
Custody of Funds or Securities of Clients by Investment Advisers

Dear Ms. Murphy:

Eagle Strategies, LLC ("Eagle") appreciates the opportunity to express its views in response to the Securities and Exchange Commission's ("SEC") request for comments on the proposed amendments to Rule 206(4)-2. Eagle is an Investment Adviser registered with the SEC, and a wholly owned subsidiary of New York Life Insurance Company ("New York Life"). A Fortune 100 company founded in 1845, New York Life is the largest mutual life insurance company in the United States and one of the largest life insurers in the world. Eagle provides its customers with an array of securities products and services that fall under the Investment Advisers Act of 1940, as amended. Therefore, Eagle has great interest in the proposed amendments to the Rule 206(4)-2.

Although Eagle supports the SEC's stated interest in preventing and detecting fraudulent conduct, including misappropriation or other misuse of investor assets, the scope of the proposed revisions goes beyond that which is necessary to meet this goal. Specifically, the application of the surprise audit requirement to firms that are deemed to have custody of client funds solely on the basis of their ability to direct the deduction of fees from client accounts does not provide any additional consumer protection.. Eagle, liker many Investment Advisers, advises its client to invest in a number of asset under management programs where funds are held by independent qualified custodians that are directed to deduct fees from client's accounts. The proposed onerous and expensive requirement of a surprise audit in these circumstances will only serve to increase costs to advisers like Eagle – costs that will ultimately be passed on the end customer in the form of higher fees for financial services.

Under the current Rule 206(4)-2, an independent qualified custodian maintaining client accounts is required to deliver account statements, on at least a quarterly basis, directly to clients. These statements contain comprehensive account information, including opening and closing balances as well as all activity in the account. The application of the surprise audit requirement to situations where funds are held with a qualified custodian, and the adviser is deemed to have custody by virtue of the ability to deduct fees does not provide any greater protection against fraud, theft or misappropriation of client funds. The client already receives sufficient information via the account statements to detect and identify erroneous or fraudulent transactions. Furthermore, review of custodial statements during regulatory exams provides ample opportunity for the SEC to test for proper calculations and fee deductions. Nothing is gained by requiring a surprise audit in addition to the safeguards that are currently in place.

The Madoff scandal and other Ponzi schemes that have sparked the fire for increased regulatory safeguards would not have been prevented by virtue of imposing more stringent standards around the deduction of fees. To date, Eagle is unaware of any systemic problems or any reports of widespread fraud related to fee deductions from client accounts held with qualified custodians. Regulatory focus in this arena should remain targeted to activities that actually place assets at risk.

In light of the foregoing, Eagle suggests that the SEC reconsider its broad application of the surprise audit requirement in favor of a more tailored approach aimed at those situations in which additional protections are necessary. To that end, investment advisors who merely deduct fees from client accounts held with qualified custodians should not be burdened with the costs and rigors of the proposed surprise audit requirement.

Sincerely,

Gerard A. Rocchi
President & Chief Executive Officer