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SEC Issues Risk Alert and Investor Bulletin on Investment Adviser Custody Rule.

The Securities and Exchange Commission has issued a Risk Alert on compliance with its custody rule for investment advisers and it also issued an Investor Bulletin about the rule, which is designed to protect advisory clients from theft or misuse of their funds and securities.

The alert by the SEC's Office of Compliance Inspections and Examinations (OCIE) comes after a review of recent examinations where significant deficiencies were identified showed custody-related issues in about one-third of the firms examined. The advisers' deficiencies included:

- Failure to recognize that they have custody, such as situations where the adviser serves as trustee, is authorized to write or sign checks for clients, or is authorized to make withdrawals from a client's account as part of bill-paying services.
- Failure to meet the custody rule's surprise examination requirements.
- Failure to satisfy the custody rule's qualified custodian requirements, for instance, by commingling client, proprietary, and employee assets in a single account, or by lacking a reasonable basis to believe that a qualified custodian is sending quarterly account statements to the client.

In addition, for advisers to audited pooled investment vehicles, the examinations found some failed to meet requirements to engage an independent accountant and demonstrate that financial statements were distributed to all fund investors.

<http://www.sec.gov/news/digest/2013/dig030413.htm>