

**Regulatory Coverage Generally Exists for Financial Planners, but Consumer Protection Issues Remain  
U.S. Government Accountability Office**

**Background:** Since December 2008, the Financial Planning Coalition (the Coalition) has worked to establish financial planning as a recognized and regulated profession. The Coalition has advocated that the SEC be authorized to recognize a financial planner oversight board that would register and establish professional standards for financial planners. The Coalition's efforts led to the inclusion of Section 919C in the Dodd-Frank Wall Street Reform and Consumer Protection Act, which required the Government Accountability Office (GAO) to study whether there are any gaps in the regulation of financial planners and make recommendations for filling identified gaps.

**GAO's Findings:** The GAO report includes a number of findings that confirm the Coalition's assertions and could support regulation specific to financial planners, including:

- "There is no specific, direct regulation of 'financial planners' *per se* at the federal or state level, but various laws and regulations apply to most of the services they provide."
- "Financial planners are primarily regulated as investment advisers . . . and are subject to laws and regulation governing broker-dealers and insurance agents when they act in those capacities."
- "The regulatory structure applicable to financial planners covers the great majority of their services, but the attention paid to enforcing regulation can vary and certain consumer protection issues remain."

The GAO also identified a number of consumer protection issues present in the current regulatory regime. We believe these findings point to the need for enhanced regulation of financial planners.

- Consumers may not understand the standards of care that apply to financial planners, especially when they provide different services subject to different standards of care.
- Consumers may not understand or be able to distinguish among the numerous titles and designations used by financial planners.
- The extent of problems relating to unethical and/or unqualified financial planners is not fully known because the Securities and Exchange Commission (SEC) and state securities regulators do not track data on complaints, examination results, and enforcement activities associated with financial planners.
- The SEC does not track data on financial planners because there are no laws that directly require registration and recordkeeping of financial planners *per se*.

The GAO concluded that "[g]iven the significant growth in the financial planning industry, ongoing concerns about potential conflicts of interest, and consumer confusion about standards of care, regulators may benefit from identifying ways to get better information on the extent of problems specifically involving financial planners and financial planning services."

However, in the GAO's judgment, "given available information, it does not appear that an additional layer of regulation specific to financial planners is warranted at this time."



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**GAO's Recommendations:** The GAO made several recommendations that present opportunities for the Coalition:

1. The National Association of Insurance Commissioners (NAIC), in concert with state insurance regulators, should take steps to assess consumers' understanding of the standards of care with regard to the sale of insurance products, such as annuities, and take actions as appropriate to address problems revealed in this assessment.
2. The SEC should incorporate into its ongoing review of financial literacy among investors an assessment of the extent to which investors understand the titles and designations used by financial planners and any implications a lack of understanding may have for consumers' investment decisions.
3. The SEC should collaborate with state securities regulators in identifying methods to better understand the extent of problems specifically involving financial planners and financial planning services, and take actions to address any problems that are identified.

**CFP Board Position:** While the GAO's judgment was that given the data available, another layer of regulation is not necessary at this time, we continue to believe comprehensive regulation of financial planning is necessary to address the regulatory gaps and consumer protection issues that remain. We are committed to continuing to build the case for regulation of this emerging profession while at the same time working with Congress, regulatory agencies, and industry to address these issues.

Currently, no single regulatory entity has jurisdiction over the full range of services and activities provided by financial planners. A financial planner provides comprehensive financial planning services that integrate advice across investment, insurance, tax, retirement, and estate planning. While financial planners are subject to regulation when providing investment advice, trading securities, or selling insurance products, the current structure does not regulate the integration of those and other financial planning services. The absence of direct, specific regulation of financial planners and a central database to find information on those who hold themselves out as financial planners leads to inadequate regulation and renders consumers unable to identify competent and ethical financial planners.

Consumers are confused about the standards of care that apply to financial planners. While requiring that broker-dealers and investment advisers should be held to the same fiduciary standard when providing personalized investment advice about securities to retail customers may help address some of the consumer confusion regarding the standards of care that apply to financial planners, it will not address all of the consumer protection issues caused by the absence of appropriate regulation of financial planners. For example, this would not require all those individuals who hold themselves out as financial planners in the sale of insurance products. We believe requiring all individuals who hold themselves out as financial planners to adhere to a fiduciary standard would be a significant step in enhancing protections for consumers of financial planning services.

Consumers are also confused about the titles and designations used by financial planners. There are various titles, designations, and marketing materials that individuals who hold themselves out as financial planners might use that could be, intentionally or unintentionally, misleading. Whether through the use of a title, designation, or marketing materials, a financial services provider may suggest that the services he is providing represent comprehensive financial planning, while in fact the services may simply be sales relating to a certain class of products or advice limited to certain aspects of a consumer's overall financial situation. We believe this consumer confusion would be significantly reduced by regulating the activities of financial planners in a comprehensive manner.

We are concerned that current information on the problems associated with financial planners is lacking. Because the SEC and state securities regulators do not track data on financial planners specifically, it would be difficult to ascertain the full extent of problems in the marketplace. Because of the growth in the financial planning industry and the consumer protection issues identified by the GAO, we believe it is critical to establish better mechanisms for tracking information on the problems associated with financial planners.

We continue to believe that comprehensive regulation of financial planners is necessary to protect America's consumers. Consumers deserve the tools and support necessary to make sound financial decisions on their path to the American dream. They should easily be able to identify competent and ethical financial planners and advisors to help them make that dream a reality. Unfortunately, the current regulatory regime for financial planners leaves consumers without the tools necessary to identify a trusted financial planner and without the consistent investor protections expected when financial professionals provide similar services.

Increased transparency and rigorous standards are good for both consumer and industry alike. Bringing all financial planners under the same regulatory "umbrella" and eliminating the current silo approach will only serve to enhance harmonization efforts. Comprehensive regulation of financial planning advice, through functional oversight, baseline competency standards, and meaningful enforcement mechanisms, will fill a crucial regulatory gap, decrease confusion, and protect consumers.