



November 29, 2011

Dear Colleague,

We are pleased to share this year-end update on the work of the Financial Planning Coalition. As you know, the Coalition formed in late 2008, uniting around our Statement of Understanding, which includes the shared vision and objectives that financial planning services are delivered to the public with fiduciary accountability and financial planning is established as a recognized and regulated profession.

Over the past year, we have been actively engaged with legislators, regulators, and other policymakers with regard to regulatory reform initiatives that impact financial planners stemming from the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). We have also worked with CFP® professionals and FPA and NAPFA members to advocate for strong consumer protections in support of the financial planning profession.

The following provides updates on some of the primary issues the Coalition has addressed during 2011.

### **Dodd-Frank Section 913: Fiduciary Standard for Personalized Investment Advice**

Under this provision, the SEC conducted a six-month study on the gaps in regulation of broker-dealers and investment advisers. The resulting [SEC Section 913 Study](#) included an SEC staff recommendation that a uniform fiduciary standard of conduct no less stringent than the current standard under the Investment Advisers Act of 1940 be established for broker-dealers and investment advisers when providing personalized investment advice about securities to retail customers.

The Coalition has been among the strongest advocates for the establishment of a uniform fiduciary standard of conduct, drafting multiple letters to the SEC and meeting with SEC Chairman Mary Schapiro, SEC Commissioners, and the Section 913 Study group. In June, the Coalition delivered a [letter](#) to Chairman Schapiro relaying a petition signed by more than 5,200 financial planning professionals in support of a strong and uniform fiduciary standard of conduct. In September, the Coalition also submitted a [statement for the record](#) in conjunction with a hearing before a subcommittee of the House Committee on Financial Services urging Congress to support the SEC as it moves forward in establishing a strong and uniform fiduciary standard of conduct for broker-dealers and investment advisers.

We expect the SEC to move forward with a rulemaking in 2012. We strongly support the SEC's efforts to establish a uniform fiduciary standard of conduct for broker-dealers and investment advisers that is no less stringent than the standard currently applied to investment advisers. We believe the SEC, which has extensive experience and knowledge of broker-dealer and investment adviser business models, will establish a fiduciary standard of conduct that enhances investor protection while maintaining access to current products and services that are consistent with investors' best interests.

### **Dodd-Frank Section 914: Enhancing Investment Adviser Examinations**

This provision required the SEC to conduct a six-month study regarding the need for enhanced examination and enforcement resources for SEC-registered investment advisers (RIAs). The [SEC Section 914 Study](#) recognized the SEC's inability to maintain high rates of examinations of RIAs and recommended three options to provide a more stable funding source that can increase as the RIA industry grows:

*User Fees:* Impose user fees on RIAs to provide scalable resources to support the SEC's examination of RIAs. These fees would be available without further appropriation, used solely to fund examination of RIAs, and set at a level to achieve an acceptable frequency of examinations.

*SRO:* Authorize one or more self-regulatory organizations (SROs) for RIAs to provide scalable resources through SRO membership fees to support the SEC's examination of RIAs.

*FINRA:* Amend the Securities Exchange Act of 1934 to permit FINRA to examine its dually registered members for compliance with the Advisers Act.

The Coalition has strongly encouraged Congress to provide the SEC with the resources necessary to enhance examinations of RIAs, a solution that would be more expedient and cost-effective than shifting oversight to a new or established SRO. The Coalition has met with staff of the House Committee on Financial Services and the Senate Committee on Banking, Housing, and Urban Affairs, and has held dozens of meetings with members and/or staff of the House Committee on Financial Services. The Coalition also addressed this issue in its September [statement for the record](#) of the House Committee on Financial Services hearing, in which it strongly opposed a discussion draft released by Chairman Spencer Bachus (R-AL) to create one or more SROs for investment advisers. The Coalition noted that the SEC, which has overseen investment advisers for over seventy years and has substantial, professional, and experienced staff of investment adviser examiners, is the appropriate regulator of investment advisers; and the Coalition urged Congress to provide the SEC with the resources necessary to leverage existing staff and infrastructure rather than create a whole new SRO.

### **Dodd-Frank Section 919C: Regulatory Recognition of Financial Planning**

The Coalition's work to establish financial planning as a recognized and regulated profession led to the inclusion of this provision requiring the Government Accountability Office (GAO) to study whether there are any gaps in the regulation of financial planners and to make recommendations for filling identified gaps. The GAO's report, titled "[Regulatory Coverage Exists for Financial Planners, but Consumer Protection Issues Remain](#)," recognized many of the same regulatory gaps and consumer protection issues that have long concerned financial planners, but determined that, given the data available, another layer of regulation is not necessary at this time.

The GAO report made several recommendations that the Coalition continues to pursue. The Coalition has reached out to the National Association of Insurance Commissioners (NAIC) to enlist its assistance in assessing consumer understanding of the standards of care with regard to the sale of insurance products. The Coalition has also followed up with the SEC and NASAA to encourage them to collaborate to identify methods that would allow a better understanding of the extent of problems specifically involving financial planners and financial planning services, and to take actions to address any problems that are identified, pursuant to the GAO's recommendation.

We continue to build the case for regulatory recognition of this emerging profession while at the same time working with Congress, regulatory agencies, and the industry to address the recommendations in the GAO report.

**Continuing Advocacy**

The Financial Planning Coalition recently affirmed our shared vision and objectives as outlined in our original Statement of Understanding, and we are working toward a shared vision for the financial planning profession. We will continue to work to implement the key investor protection recommendations from the Dodd-Frank Act that are aligned with our shared vision. At the same time, we recognize that the current political climate poses challenges to our goal of establishing financial planning as a recognized and regulated profession, and we are continuing to educate policymakers and lay the groundwork for regulatory recognition of the profession.

We appreciate your continued support for the work of the Financial Planning Coalition. More information on the Coalition and its activities is available on the Coalition's [Web site \(www.financialplanningcoalition.com\)](http://www.financialplanningcoalition.com).

Sincerely,

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