FINANCIAL PLANNING COALITION

FOR IMMEDIATE RELEASE
May 12, 2010

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75,000-Member Financial Planning Coalition to Senate: Reduce Elder Financial Abuse and Protect All Consumers by Approving Fiduciary Standard Amendment

Coalition Challenges Myths Circulated by Lobbying Groups, Urges Senate to Adopt Akaka-Menendez-Durbin Amendment to Finance Reform;
Amendment Requires All Broker-Dealers to Act in Best Interest of Client

Washington, D.C. – May 12, 2010 – The leaders of the 75,000-member Financial Planning Coalition held a media call yesterday urging the Senate to adopt in its financial reform package an amendment offered by Senators Daniel Akaka (D-HI), Robert Menendez (D-NJ) and Richard Durbin (D-IL) which would extend the fiduciary standard to all broker-dealers. The fiduciary standard of care requires advisers to act in the best interest of their clients.

"American consumers, particularly vulnerable investors like the elderly, need this reform – and the time to pass it is now," said William Baldwin, 2009/2010 NAPFA Chair. "Elderly financial abuse is almost as harmful as physical abuse. When you have to tell an individual they have no money left due to poor advice from an adviser, that is a very sad situation. Requiring more financial professionals to adhere to the fiduciary standard will help protect seniors from losing their hard-earned savings."

The media call focused on a letter the Financial Planning Coalition sent Monday to the full Senate urging adoption of the amendment that would hold broker-dealers who provide investment advice to retail clients to a fiduciary standard of care, meaning they would be required to provide advice based on the best interest of their clients. The fiduciary standard would strengthen financial consumer protection; brokers and dealers are currently required to meet a "suitability standard of care," meaning the advice they provide need only be suitable for the client.

"There is no point to financial reform without ensuring that all financial advisers are held to the fiduciary standard of care," said Bob Glovsky, 2010 Chair of the CFP Board. "There are many blatantly false claims being made by lobbying groups against the fiduciary standard. This amendment would not force advisers to charge fees for services that are currently provided for free; nor would it deprive Americans of any financial services they currently enjoy. Simply put, anyone opposed to this reform is opposed out of their own self-interest."

"It is unfathomable that those who hold themselves out as trustworthy advisers are not actually obliged to provide advice based on the best interest of the client. There is no need to wait and there is no need for further study," said Richard Salmen, FPA 2010 Chairman. "Extending the fiduciary standard to all broker-dealers is a common sense way to improve consumer financial protection."

The Coalition also maintained that the extension of the fiduciary standard of care to brokers and dealers would provide an extra layer of protection for consumers of financial services, particularly the elderly. Under current laws, it is very easy for a financial adviser to steer a client toward an investment choice based on the potential commission instead of the client's utmost financial well-being. A recent survey of almost 4,000 members of the Financial Planning Coalition found that nearly 59% of financial planners were aware of a client or acquaintance who had been the victim of poor or dishonest financial advice. The planners indicated that the most likely victims were the elderly.

The Coalition represents over 75,000 individual financial planners including licensed investment advisors, securities brokers and insurance producers, who provide financial planning services to consumers through a variety of business models ranging from commission-based to fee-only arrangements. The Coalition financial planners, who voluntarily adhere to a fiduciary standard of care, dispelled arguments from insurance and brokerage groups who are claiming that the extension of the fiduciary standard to broker-dealers will drive them out of business and deny investors access to financial products and services.

About the Financial Planning Coalition: The Financial Planning Coalition is a collaboration of Certified Financial Planner Board of Standards (CFP Board), the Financial Planning Association® (FPA®), and the National Association of Personal Financial Advisors (NAPFA) to advise legislators and regulators on how to best protect consumers by ensuring financial planning services are delivered with fiduciary accountability and transparency. *To learn more, please visit www.financialplanningcoalition.com.*

FINANCIAL PLANNING COALITION

May 10, 2010

Dear Senator:

The Financial Planning Coalition writes to express its strong support for inclusion of Amendment No. 3889, sponsored by Senators Daniel Akaka, Robert Menendez, and Richard Durbin, in the Restoring American Financial Stability Act of 2010 (RAFSA). The Akaka-Menendez-Durbin amendment would enhance investor protection by requiring securities brokers to act in their client's best interests when giving personalized investment advice. The Financial Planning Coalition (Certified Financial Planner Board of Standards, Inc. (CFP Board), Financial Planning Association® (FPA®), and National Association of Personal Financial Advisors (NAPFA)) represents over 75,000 individual financial planners located throughout the United States who serve clients with fiduciary accountability. We believe that all individuals who provide investment advice to retail clients—regardless of what they call themselves or what licenses they hold—should be held to the same fiduciary standard of care that is currently required of investment advisers under the Investment Advisers Act of 1940.

The Akaka-Menendez-Durbin amendment would achieve this much needed and timely reform. It would replace language in RAFSA that merely requires the Securities and Exchange Commission (SEC) to study the issue with language that was passed by the U.S. House of Representatives. The amendment would require the SEC to promulgate rules extending to broker-dealers the same fiduciary standard that currently applies to investment advisers under the Advisers Act, and it would require the SEC to harmonize the standard applied to broker-dealers and investment advisers.

Financial planners, represented by the Coalition, include licensed investment advisers, securities brokers, and insurance producers. They voluntarily adhere to the fiduciary standard of care in providing financial planning services through compliance with the standards of professional conduct established by CFP Board or through their membership in FPA® or NAPFA. Those who sell securities or insurance products while providing financial planning advice faithfully do so with fiduciary accountability, providing their clients with full disclosure of any conflicts of interests, including the products they are able to offer and the commissions they receive. Coalition financial planners have found that putting their clients' interests first is good for their clients and is good for their businesses.

You have undoubtedly heard from some insurance and brokerage groups that this commonsense investor reform will drive them out of business and deny investors access to important insurance and securities products. Based on our experience, these statements are simply not true. Those Coalition financial planners who sell insurance and securities products to clients have a track record of successfully doing so under a fiduciary standard of care. Contrary to assertions by industry opponents, the Akaka-Menendez-Durbin amendment:

- Would not require securities brokers or insurance producers to charge fees for their services. **The legislation explicitly protects commission-based compensation.** Those Coalition financial planners who charge commissions adhere to the fiduciary standard by managing conflicts of interest and disclosing commissions to clients.
- Would not prevent securities brokers or insurance producers from offering a limited menu of products. **Again, the legislation specifically permits the sale of limited or proprietary products.** Coalition financial planners who provide these products to their clients do so with fiduciary accountability by making appropriate disclosures.

Further study is not needed. In addition to the regulatory record developed over the years by the SEC, as well as the SEC-commissioned 2008 Rand Corporation study, there is other evidence of need for reform. The Financial Planning Coalition recently conducted a survey of our members to determine how many of them are aware of clients who received improper advice from another financial adviser. Of the almost 4,000 financial planners surveyed, nearly 59% were aware of a consumer who had fallen victim to poor or dishonest recommendations from a financial professional. Common abuses included:

- An elderly woman, easily confused and suffering from some memory loss, attended a financial seminar by an individual calling himself a financial planner and was convinced to transfer all of her investments into annuities without being told that she would be unable to access the funds for many years except under heavy penalties.

- An 80-year-old married man, with an estate estimated at $500,000, was sold an equity indexed annuity with a 17-year surrender period, meaning he could not withdraw the money without paying heavy penalties.

These practices would be prohibited by the client-first fiduciary standard of care.

We urge you to support the Akaka-Menendez-Durbin amendment. It will be an important first step in securing adequate protections in the delivery of financial advice to all our Nation's consumers. If you have any questions, please contact Marilyn Mohrman-Gillis, Managing Director, Public Policy and Communications, CFP Board, at (202) 379-2235 or mmohrman-gillis@cfpboard.org; Dan Barry, Director of Government Relations, FPA®, at (202) 449-6343 or dan.barry@fpanet.org; or Nancy Hradsky, Special Projects Manager, NAPFA, at (847) 483-5400 ext. 103 or hradskyn@napfa.org.

Very truly yours,

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