



January 27, 2011

Dear Colleague,

Recently, the staff of the U.S. Securities and Exchange Commission (SEC) submitted two reports to Congress: a Study on Investment Advisers and Broker-Dealers (Fiduciary Study); and a Study on Enhancing Investment Adviser Examinations (IA Examination Study). Both studies include findings that are consistent with several positions advocated by the Financial Planning Coalition, and also make recommendations that invite further discussion and research. Following are summaries of each study to better familiarize you with key findings and the Coalition's related efforts.

### **Fiduciary Study**

The Financial Planning Coalition, along with other industry and consumer advocate groups, has advocated that the SEC should create rules establishing a strong and uniform fiduciary duty for investment advisers and broker-dealers who provide personalized investment advice to retail customers. The Fiduciary Study recommends that the SEC establish a "uniform fiduciary standard" that would be "no less stringent than currently applied to investment advisers under [the 1940 Investment] Advisers Act."

This approach would help reduce investor confusion and promote the integrity of investment advice by applying the same fiduciary standard of care, regardless of whether the advice is provided by an investment adviser or a broker-dealer. In reaching its recommendation, SEC staff specifically relied on a survey conducted by the Coalition, AARP, Consumer Federation of America, Investment Adviser Association, and the North American Securities Administrators Association. The survey found that retail investors do not understand the differences between investment advisers and broker-dealers or the differing standards of care that each is held to currently.

The Fiduciary Study recommends that the SEC create rules or provide interpretive guidance on issues affecting implementation of the fiduciary standard of care, including conflicts of interest, principal trading, and what it means to provide personalized investment advice. It also recommends that the SEC consider whether retail investors would benefit from changes (or "harmonization") to other areas where broker-dealer and investment adviser regulations differ, including advertising and other communications; use of finders and solicitors; supervision; licensing and registration of firms; licensing and continuing education; and books and records.

The Coalition will urge the SEC to move forward with rulemaking to establish a strong and uniform fiduciary standard for broker-dealers and investment advisers. A review of other broker and adviser rules can also help minimize investor confusion by trying to standardize regulations that apply to like services. The Coalition looks forward to working with the SEC to identify areas where standardization is appropriate and consistent with investors' interests.

### **IA Examination Study**

In a December 2010 letter to the SEC, the Financial Planning Coalition raised several concerns about outsourcing SEC oversight of investment advisers to a self-regulatory organization (SRO) and encouraged the SEC to retain oversight of investment advisers. Many of the key concerns raised in that letter were reflected in the IA Examination Study. While noting that Congress has not provided the SEC with sufficient funding, the IA Examination Study recommends that Congress consider three options to enhance examinations of investment advisers:

- Authorize the SEC to impose user fees to fund examinations of investment advisers;
- Authorize one or more SROs to examine, subject to SEC oversight, all SEC- registered investment advisers; and
- Authorize the Financial Industry Regulatory Authority to examine dual registrants for compliance with the Advisers Act.

The Coalition has previously stated that the most effective way to improve oversight is for Congress to provide the SEC with adequate funding. We recognize that Congress' decision on how best to address this issue is important to many of our stakeholders, and we will continue our involvement with this issue as the legislative process evolves.

The Financial Planning Coalition will remain focused on advocating for SEC rulemaking based on the Fiduciary Study. We will also continue to encourage Congress to provide the SEC the resources needed to ensure the SEC, as the regulator for investment advisers for 70 years, can continue to exercise that important oversight function.

We appreciate your continued support of the Financial Planning Coalition's work on behalf of the financial planning profession and American consumers. For a copy of the Coalition's statements on each study, please visit [www.FinancialPlanningCoalition.com](http://www.FinancialPlanningCoalition.com).

Sincerely,

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