July 25, 2014

Hon. Barbara Mikulski
Chairman, Committee on Appropriations
U.S. Senate
Room S128
The Capitol
Washington, DC 20510

Hon. Richard Shelby
Ranking Member, Committee on Appropriations
U.S. Senate
Room S128
The Capitol
Washington, DC 20510

Re: <u>Fiscal Year 2015 Securities and Exchange Commission Appropriations</u>

Dear Senators Mikulski and Shelby:

The Financial Planning Coalition[1] (FP Coalition) commends the Senate Committee on Appropriations' Subcommittee on Financial Services and General Government (Senate Subcommittee) for its approval of the Securities and Exchange Commission's (SEC) FY 2015 funding request and we urge the full Committee on Appropriations to do likewise. As the premier federal watchdog for our financial markets, it is imperative that the SEC have the necessary resources to carry out its mission to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.

As the full Committee considers the SEC's budget request, we bring to your attention our concerns regarding an ill-conceived amendment recently adopted by the House of Representatives in its SEC funding bill, H.R. 5016, the Financial Services and Related Agencies Appropriations. H.R. 5016 authorized $1.4 billion for the SEC, which is about $300 million less than the Senate Subcommittee-approved request. Of particular interest to the FP Coalition are

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[1] The Financial Planning Coalition, a group representing nearly 80,000 stakeholders, is a collaboration of Certified Financial Planner Board of Standards, Inc. (CFP Board), the Financial Planning Association® (FPA®), and the National Association of Personal Financial Advisors (NAPFA) formed 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.

the critical investor protection issues of investment adviser oversight and adoption of a uniform fiduciary standard, both of which are tied to this appropriations process.

First, the SEC's inability, due to a chronic lack of resources, to effectively examine the 11,000 investment advisers registered with the agency is a significant, yet addressable, problem. According to the SEC, in 2013 the agency was able to examine a paltry 9% of these investment advisers who, collectively, comprise only about 25% of the $55 trillion of customers' assets being managed for investors. This means the SEC was unable to examine 91% of the investment advisers who are managing 75%, or approximately $165 trillion, of customer assets. This unacceptable examination rate is far below what investors expect and deserve. The Senate Subcommittee's vote to fully fund the SEC at $1.7 billion funding would permit the agency to, according to SEC Chair Mary Jo White, hire additional examiners to conduct more examinations more frequently.

Additionally, the FP Coalition believes that all investors should benefit from financial advice that is in their best interests. Accordingly, we have strongly urged the SEC to move forward with adoption of a uniform fiduciary standard consistent with section 913 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank). Currently, broker-dealers are only required to make a determination that the investment advice they provide is merely suitable for their clients. Conversely, investment advisers operate under a fiduciary standard that requires them to provide advice that is in the customer's best interest. This disparity standards of conduct often leads to investors being harmed by, among other things, paying excessive fees for substandard financial products.

A uniform fiduciary standard is necessary to better protect investors by ensuring that broker-dealers who provide individualized financial advice to retail customers are required to put their customer's interest above their own. The SEC, pursuant to authority granted to it in Dodd-Frank, is now considering whether to promulgate such a rule. H.R. 5016, however, abrogates Congress' intent in Dodd-Frank by prohibiting the agency – to the detriment of American investors – from using any funds to promulgate this necessary rule. We urge you, therefore, to ensure that this, or any similar provision that prevents the SEC from doing its job to protect investors, is not included in a Senate appropriations bill.

Thank you for your consideration and for your commitment to American investors.

Very truly yours,

Kevin R. Keller, CAE
Chief Executive Officer
CFP Board

Lauren Schadle, CAE
Executive Director/CEO
FPA®

Geoffrey Brown, CAE
Chief Executive Officer
NAPFA