

The Problem: Regulatory Gaps in the Delivery of Broad Financial Advice

Financial services regulation since the Great Depression has developed along roughly dual tracks: laws governing the sale of financial products, which may or may not require that the products be suitable for the customer, and laws governing investment advice, which impose a fiduciary requirement on the adviser to act solely in the best interests of the client. When the delivery of financial services involves a combination of various product sales and financial advice, the dual regulatory structure has resulted in consumer confusion, conflicts of interest, gaps in oversight, or no oversight at all.

One significant gap applies to the delivery of broad financial advice to the public. In the 1960s, a new discipline called financial planning evolved to provide advice across multiple areas of existing regulation. Financial planning typically includes advice on selecting and managing investments; income taxes; saving for college, home ownership and a comfortable retirement; obtaining appropriate insurance coverage; and estate planning. As a result, no single law governs the delivery of financial planning advice to the public. This has resulted in two problems over time:

1. **“Patchwork” Regulation of Financial Planning Advice.** Financial planners currently maintain up to three different licenses – insurance, brokerage and investment adviser – to provide comprehensive advice and services to the public.
2. **Widespread Confusion over Titles.** It is easy to identify a doctor, lawyer, or other licensed professional by their title. Today, however, hundreds of thousands of financial agents hold themselves out as financial planners (or some variation of the title) without meeting essential training or ethical requirements, often leading to narrowly focused advice based on product solutions instead of objective advice focused on the client’s long-term financial goals.

The Solution: Functional Oversight of Financial Planning Advice

Consumers must have the tools and support necessary to make smart financial decisions. Consumers seeking professional advice should be able to identify competent and ethical financial planners – those who have met basic standards of training, testing and experience, and who are required to proactively disclose all conflicts of interest and act solely in the client’s best interests. Establishing clear qualifications and standards for financial planners will enable consumers to distinguish between fiduciary advisers and those who offer limited product solutions that may conflict with the clients’ broad, long-term goals.

Regulatory oversight of financial planners could be established as follows:

- Create a professional oversight board that would set and enforce competency and ethical standards for the delivery of financial planning services subject to SEC oversight.
- Require those who provide financial planning services to individuals or families or who hold themselves out as “financial planners” to meet the standards of the professional oversight board.

- Charge the oversight board with setting education, qualification and experience standards through a process that seeks input and participation from interested parties involved in consumer protection, financial planning and oversight of financial advice.
- Charge the oversight board with establishing a fiduciary standard of care for the delivery of financial planning services to the public.
- Direct the oversight board to grant reasonable industry exemptions from financial planning regulation for other regulated professions.
- Provide the oversight board with the authority to enforce its standards and rules, and be able to cooperate closely with other financial services authorities in enforcement matters.

The Benefits of Regulatory Oversight of Financial Planners to the Public

- **Improves the Financial Health of Americans.** In an increasingly complex and uncertain financial environment, individuals need the guidance of trusted and competent advisors to help them manage their financial resources and make sound financial decisions in meeting life goals. The establishment of qualifications and standards of conduct that will allow American consumers to identify competent and ethical financial planners is critical to the individual and collective financial health of all Americans, regardless of their income or net worth.
- **Strengthens Our Economy.** The failures of financial institutions, rampant consumer abuse, and widespread investor anger against Wall Street have created a lack of public trust in our financial systems. The ability of Americans to identify and place their trust in competent, ethical and professional financial planners will re-build their confidence as investors in our nation's markets, a key to economic recovery.
- **Fills Critical Regulatory Gaps.** Financial planning is currently unregulated as a profession. Financial planners are subject to an inconsistent patchwork of Federal and State rules and requirements without clear standards of care. Functional regulation of financial planners would fill a serious gap in current regulation.
- **Decreases Consumer Confusion.** The current regulatory gaps have been filled by various private sector certifications, many of them bogus and confusing to consumers. This has permitted hundreds of thousands of individuals without proper training to claim they are providing financial planning services even though they have no legal requirement to act in the best interests of their clients. The financial planning oversight board would prohibit financial agents from holding themselves out as financial planners, unless and until they meet qualification and ethics standards.

The Opportunity:

The call for wholesale regulatory reform in financial services provides an historic opportunity to revise our outdated financial regulatory system and demand more protection and accountability for American consumers. Federal oversight of financial planning advice – with baseline standards of education, qualification, and experience and a fiduciary standard of care – should be an essential component of Congress' plan to modernize financial service regulation and restore investor confidence.