



December 16, 2009

Dear Colleague:

As the financial services reform legislation moves through Congress, the Financial Planning Coalition is helping to shape the outcome. Last week, during the House debate of the Wall Street Reform and Consumer Protection Act of 2009 (H.R. 4173), the Coalition and its stakeholders mobilized to defeat a provision that would have given the Financial Industry Regulatory Authority (FINRA) authority to regulate investment advisers. We were also instrumental in obtaining a provision in the bill calling for a study of the financial planning profession and how it is regulated—important groundwork for building a distinct profession. Finally, as we continue to advocate for a financial planner oversight board in the Senate, we have narrowed our proposal to address concerns that impeded its inclusion in the House.

Below is an update on some of the key provisions affecting financial planners and what the Coalition is doing as the battleground shifts to the Senate.

**FINRA Oversight:** Nearly 2,000 financial planners responded to a call from CFP Board and FPA to write to their Members of Congress opposing a provision that would have given FINRA oversight of most investment advisers, including many planners. Planners wrote in support of a successful amendment offered by Chairman Barney Frank (D-MA) and Rep. Steve Cohen (D-TN) that removed the provision from the bill, complementing the Coalition's own lobbying efforts to remove the FINRA provision. The Coalition is talking to key offices in a preemptive effort to block any similar effort in the Senate.

**Study on Financial Planning:** Working with Rep. Michael Capuano (D-MA), the Coalition was successful in obtaining an amendment calling for a study on the regulation and oversight of financial planning by the Government Accountability Office (GAO). The GAO would be required to make recommendations to Congress for the appropriate regulation of financial planning. These studies often lay important groundwork for future action by Congress. The Coalition is working to ensure that, at a minimum, the Senate bill includes this key provision.

**Fiduciary Duty for Brokers:** The House bill includes a provision requiring brokers who provide personalized investment advice to retail customers adhere to the same fiduciary standard of care as investment advisers. The Coalition has strongly supported this effort, but has also expressed concerns with the specifics of the bill, which delegates to the SEC much of the responsibility for defining the fiduciary standard. The concern is that the standard could be weakened through rulemaking and interpretation. Working with a broad group of consumer, state regulator and industry representatives, the Coalition is seeking to ensure that the Senate legislation includes an unambiguous and even application of the Advisers Act fiduciary standard to brokers who provide advice.

**Consumer Financial Protection Agency:** The House bill also establishes a new Consumer Financial Protection Agency (CFPA) to regulate the provision of consumer financial products or services, such as credit cards and mortgages. The Coalition is

concerned that some services offered by financial planners (for example, advice regarding mortgages and other bank products) could be subject to the CFPA, and is looking to clarify its applicability. The Coalition is working to address this through appropriate regulation of financial planners in the Senate version of the bill.

**Financial Planner Oversight:** As the focus shifts from the House to the Senate, the Coalition is continuing to make a strong push to establish a financial planner oversight board that would set baseline competency, practice, and ethical standards for financial planners. To address some of the concerns that were raised in the House, we have narrowed the definition of financial planner. Only those who affirmatively hold themselves out as financial planners would be required to register with the oversight board. While this would not resolve all consumer confusion and potential consumer misrepresentation, it would go a long way to achieving an important goal set by the Coalition: that the public knows that a “financial planner” is a legitimate and accepted professional who is competent to provide broad-based, integrated financial advice, and will do so with fiduciary accountability and transparency.

We appreciate your continued support of the Financial Planning Coalition in its efforts on behalf of the financial planning profession and American consumers. For more information, please visit [www.FinancialPlanningCoalition.com](http://www.FinancialPlanningCoalition.com).

Signed,

Marilyn Capelli Dimitroff, CFP®

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