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Financial Planning Coalition Says Investment Adviser SRO Legislation Offers Wrong Solution to Increase Investor Protections

Legislation would harm small businesses; better options available

Washington, D.C., June 6, 2012 – The Financial Planning Coalition today said in a [prepared statement](#) that the Investment Adviser Oversight Act of 2012 (H.R. 4624) would create a new regulatory structure that would lead to fewer investor choices for financial advice and impose a significant regulatory burden and higher costs on small advisory firms.

While the Coalition agrees that more frequent examinations of investment advisers by the Securities and Exchange Commission (SEC) are needed, it said that the proposed legislation “is the wrong solution for this problem,” noting that should it become law the broker-dealer governed Financial Industry Regulatory Authority (FINRA) – which has no experience overseeing investment advisers – would most likely become the SRO.

The Coalition — comprised of the Certified Financial Planner Board of Standards, Inc., the Financial Planning Association and the National Association of Personal Financial Advisors and representing more than 75,000 stakeholders – urged Members of Congress to reject the SRO approach in the legislation and put in place a solution that will work to “truly protect investors.”

“H.R. 4624 is not the right solution for the narrow problem of increasing investment adviser examinations, and it would create many more problems than it purports to resolve,” the Coalition wrote. “It would single out small business owners by imposing fees and regulatory burdens on mid- and small-sized advisory firms that are not imposed on large firms. It would impose increased layers of regulation and cost on state registered investment advisers. Finally, it would discourage investment advisers from serving retail clients. In sum, H.R. 4624 would create significant investor protection issues in its efforts to resolve a simple resource gap at the SEC.”

Citing a [study by The Boston Consulting Group](#), the Coalition noted that a FINRA SRO would cost an estimated \$550 to \$610 million a year. This amount includes an estimated \$90 to 100 million annually for SEC oversight, which is required by current law. The cost to the SEC of overseeing the SRO alone is comparable to providing the SEC with the incremental resources it needs to increase its examinations of all investment advisers an average of every four years.

Saying it “supports the obvious, simple and much less expensive alternative, which is to enhance the SEC’s existing oversight program so that it can examine all SEC-registered investment advisers at least once every four years,” the Coalition would support Congress granting the SEC the “authority to assess user fees on all SEC-registered investment advisers.”

The Coalition also encouraged Members of Congress to consider solutions that:

- would address the SEC’s lack of resources with no impact on taxpayers or the federal deficit,
- would increase examinations for all investment advisers to an acceptable level to protect investors,
- would be the most cost-effective and efficient solution,
- would not require establishing a whole new regulatory bureaucracy,
- would treat large, mid-sized and small investment advisers consistently,
- would be supported by investment advisers who have stated a strong preference for paying user fees to the SEC as an alternative to a FINRA-IA SRO, and
- would allow Congress to retain direct oversight and accountability over the SEC.

While the legislation is supported in part to protect the public from future Bernard Madoff Ponzi schemes, the Coalition notes in its testimony that Mr. Madoff’s firm would likely not have been affected by the legislation because his firm would likely have been exempted from the SRO.

“H.R. 4624 leaves the SEC with examination responsibility for the largest advisory firms without additional resources to examine these firms every four years and with the additional unfunded responsibility to oversee a new SRO,” wrote the Coalition. “Such a result would be perverse from a public policy perspective. Under H.R. 4624, smaller investment advisers subject to the new SRO would be examined once every four years. But the larger SEC-only investment advisers, who manage far more assets and affect the lives of far more investors, would be examined at a far lower frequency.”

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