



March 3, 2010

The Honorable Christopher J. Dodd, Chairman
Senate Committee on Banking Housing & Urban Affairs
534 Dirksen Senate Office Building
Washington, D.C. 20510

RE: Financial Planning Coalition's Request Letter on Financial Reform

Dear Chairman Dodd:

On February 16th, 2010 the leaders of the Certified Financial Planner Board of Standards (CFP Board), the Financial Planning Association (FPA®), and the National Association of Personal Financial Advisors (NAPFA) that compose the Financial Planning Coalition wrote requesting '*you to include language directing the formation of a financial planning oversight board in upcoming financial reform legislation.*'

I wholeheartedly agree with the notion of financial *planning* oversight; however, the reality is that the Coalition needs no legislative authority to pursue their highly noble and much needed initiatives. If Congress granted the Coalition's request to '*establish both a professional oversight board for financial planners that would be subject to federal authority, and a true fiduciary standard of care. Individuals who provide broad financial advice – or present themselves as "financial planners" or similar – would be subject to the board's oversight.*' the glaring problem remains that FINRA is 'regulating' financial *planning* and another entity regulating *planners*.

Currently, most commercially available financial planning software used by 'financial planners' (many who hold CFP designations) are built on calculations designed to comply with FINRA Interpretive Material IM-2210-06. The IM is very clear on how Rule 2210 applies to financial planning software.

Quoting from this letter, "IM-2210-6 defines an investment analysis tool as 'an interactive technological tool that produces simulations and statistical analyses that present the likelihood of various investment outcomes if certain investments are made or certain investment strategies or styles are undertaken, thereby serving as an additional resources to investors in the evaluation of the potential risks and returns of investment choices. **The filing requirement does not apply to hypothetical illustrations of mathematical principles** that do not predict or project the performance of an investment or investment strategy, such as Web site calculators that compute future returns based upon assumed variables, since Rule 2210(d)(1)(D) does not prohibit (and IM-2210-6 thus does not cover) such illustrations."

Endnote 3 elaborates on this by saying, "The '**hypothetical illustration**' exception to the prohibition in Rule 2210(d)(1)(D) applies to tools that serve the function of a calculator that computes the mathematical outcome of certain assumed variables without predicting the likelihood of either the assumed variables or the outcome. For example, **this exception would apply to a calculator that computes a net amount of savings that an investor would earn over an assumed period of time with assumed variables of rates of returns, frequency of compounding, and tax rates.** On the other hand, this exception would not apply to a calculator that predicted the likelihood of achieving these assumed variables and outcomes."

Because economics dictate these software providers gain '*FINRA approval*' of their calculations to sell to large broker-dealers with many registered reps, a generation of 'financial planning' software has been created which is nothing greater than sophisticated investment and insurance product sales proposals.

A new, better regulated and defined *planner* is of no more value to the public if the *planning* is not sound or regulated by the brokerage industry.

If the members of the Financial Planning Coalition focus on *planning* standards and acceptable practices instead of who regulates *planners*, many of the issues brought forth by investors and the Coalition's own poll could be more succinctly addressed.

Ensuring financial *planning* calculations are rigorously tested and mathematically correct would meet the Coalition's stated three main focuses:

- Protecting consumers by ensuring financial *planning* services are delivered to the public with fiduciary accountability and transparency;
- Fixing the outdated and problematic patchwork of regulation overseeing various aspects of financial *planning*; and
- Addressing financial *planning* regulatory gaps.

It is time the Coalition members fulfil their stated role as a consumer advocate by assuming the financial *planning* oversight they abdicated to FINRA.

Regards,



Brent E. Bentrim, CIO
Managing Director

cc Kevin R. Keller, CEO, CFP Board
Marvin W. Tuttle, Jr., Executive Director/CEO, FPA
Ellen Turf, CEO, NAFPA