



FEDERAL ACTIVITIES

Financial Services Reform Bill Passes. On July 21st, the *Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010* (Dodd-Frank) was signed by President Obama. More than a year of debate culminated in a largely party-line vote to close out Congress' consideration of sweeping reforms intended to address many of the regulatory issues that surfaced during the recent financial crisis. In many respects, Dodd-Frank only marks the end of the beginning, with many controversial issues left to be addressed by regulation and dozens of issues to be studied. FPA has created a summary, highlighting the provisions of Dodd-Frank that are particularly important to financial planners and investment advisers. From fiduciary duty to determining whether you need to be registered with the SEC or with state regulators, Dodd-Frank may change how you do business. Mark your calendars for a special webinar on August 18th to explore the issues that are most important to your practice.

WEB LINK

Click here for FPA's summary of key provisions of Dodd-Frank [here](#)

Click [here](#) for details on the webinar and to register

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SEC Looks for Comments on Fiduciary Standard for Brokers. One key issue addressed by the financial services reform bill is the fiduciary duty. Dodd-Frank grants authority for the SEC to hold brokers to a fiduciary standard when they provide personalized investment advice to retail clients. But before the SEC exercises that authority, it must conduct a study of the standards of care that currently apply to brokers and advisers when providing advice. As part of the review the SEC will also be looking at the regulatory resources dedicated to enforcing the respective standards, and what the potential impact of rulemaking would be on consumers in terms of investor protection, availability of products and services, and costs. The SEC is seeking input for its six-month study and has asked for comments by the end of August.

Revised Form ADV-Part 2 Approved by SEC. Ten years after it was first proposed, the SEC had approved sweeping changes to the Form ADV, Part 2, commonly called the “brochure.” The changes were approved at an SEC meeting on July 21st, however, the SEC held off making the rules public for five additional days while they worked out certain issues with the states. The brochure will change from a check the box format to a more narrative form. The plain English format should allow customers to more easily understand the adviser’s business, compensation model, and conflicts of interest. Advisers will have to file the brochures electronically so that the SEC can make them available to the general public on the SEC’s website.

Advisers will be required to deliver brochure supplements to new and prospective customers. The new rules and forms will go into effect 60 days after publication.

SEC Proposes Changes to Rule 12b-1 Fees. On July 21st, the SEC issued a proposal to substantially revise how mutual funds pay fees. The proposal would eliminate 12b-1 fees and replace them with two new fees. “Marketing and Service” fees, which would be limited to 25 basis points, could be used for any distribution activity. These can include costs associated with participation in a fund supermarket and trail commissions to brokers.

“Ongoing sales charge” fees would cap fund cumulative sales charges at the highest front end load that the investor would have paid for a different class of the fund or 6.25%, whichever is lower. (So a class of shares that charge 1%/year could do so for only 6.25 years before they converted to a class with no ongoing sales charges.) These fees could be used as sales charges were used before.

There would also be much more extensive disclosure of the fees paid, and a more accurate description of what the fees are used for. The funds would also be allowed to be sold at NAV to broker-dealers and then the broker-dealer could determine the sales charge it wants to add, based on the amount of service the customer wants.

WEB LINK

Click [here](#) to view the request for comments, including details on the specific issues to be covered by the study and
Click [here](#) to view the SEC release and to submit comments

WEB LINK

<http://sec.gov/rules/final/2010/ia-3060.pdf>

WEB LINK

<http://sec.gov/news/press/2010/2010-126.htm>

•Tax and Savings Issues

Senate Plans Mega Tax Markup for September. Many Hill watchers had been expecting the debate to extend the 2001 tax cuts to be pushed until after the elections, into what is referred to as a lame-duck session of Congress. However, Senate Majority Leader Harry Reid (D-NV) has promised a showdown in September. Expect a fierce battle, pitting Democrats against Republicans, liberals against centrists, and the Senate against the House.

WEB LINK

<http://thehill.com/homenews/senate/12641-reid-plans-september-showdown-on-bush-tax-cuts>

Senate Drops S Corp Tax. Small investment advisers and brokerages organized as S corporations can breathe a sigh of relief, for now anyway. Language that would have altered the tax treatment of small service S corps was dropped from final passage of legislation that extended unemployment benefits (H.R. 4213). The provision that had passed the House would have subjected 100% of distributions to employment taxes for an S corp engaged in a professional service business whose principal asset is the reputation and skill of three or fewer employees.

WEB LINK

<http://online.wsj.com/article/SB10001424052748703578104575397223281769114.html>

IRS Gives Delinquent Small Charities Another Chance. Most tax-exempt organizations, other than churches, must file a yearly return or notice with the IRS. Prior to 2006, organizations with gross receipts of \$25,000 or less were not required to file. The Pension Protection Act of 2006 changed that. Now any organization that fails to file for three consecutive years automatically loses its tax-exempt status. Loss of exempt status means an organization must file income tax returns and pay income tax. IRS has released a list of organizations by state that are at risk.

WEB LINK

<http://www.irs.gov/charities/article/0,,id=225889,00.html>

•Retirement Issues

Social Security's Outlook: Unchanged. The Social Security Trust Funds will be exhausted in 2037, the same as projected last year. Tax revenues will fail to cover program costs in 2010 and 2011, before recovering in 2012 through 2014. But permanent deficits occur beginning 2015, one year earlier than estimated in last year's report. The worsening of the short-range outlook is due in large part to the recent economic downturn.

WEB LINK

<http://www.ssa.gov/pressoffice/pr/trustee10-pr.htm>
FPA's Social Security Predictor:
<http://www.fpaforfinancialplanning.org/SocialSecurityPredictor/ScenarioSelection.aspx>

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DOL Fee Disclosure Rules. The Department of Labor has released regulations requiring all service providers to employee benefit plans to disclose the direct and indirect fees they earn from plans. "Service providers" is broadly defined to include advisors, brokers, investment-product companies and third-party administrators. The rules go into effect in July 16, 2011.

Web Link

Click [here](#) and [here](#) for more information

SEC Proposed Target Date Advertising Rules. The SEC proposed rules to require additional disclosure in sales materials for target date funds, including information about a fund's asset allocation at the target date, during the glidepath, and at its landing point.

Web Link

<http://www.sec.gov/rules/proposed/2010/33-9126.pdf>

State Activities

Iowa Requires Additional Training for Annuity Sale. Anyone selling annuities in Iowa will be required to get four additional hours of continuing education credits next year. The education will focus on the basics of the products as well as appropriate sales practices. The requirement is not recurring. Since this is part of the push to have states adopt the NAIC suitability standards, expect this to occur in other states in the future.

Web Link

<http://www.iid.state.ia.us/docs/bull1002.pdf>

Below the Beltway

Kerry Sails Tax Debacle

Web Link

http://www.boston.com/news/nation/articles/2010/07/30/kerry_says_he_always_intended_to_pay_tax/

Charlie's First Bad Day Since

Web Link

http://www.washingtonpost.com/wp-dyn/content/article/2010/07/22/AR2010072204704_pf.html
http://news.yahoo.com/s/ap/20100727/ap_on_go_co/us_rangel_ethics
http://voices.washingtonpost.com/post-partisan/2010/08/charlie_rangel_is_no_crook.html?hpid=opinionsbox1

Has the Wave Crested?

Web Link

<http://www.cookpolitical.com/node/7699>

CAPITOL UPDATE

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