



Congressman Paul Kanjorski: Playing a Key Role on the House Financial Services Committee



As the second most senior member of the House Financial Services Committee, Congressman Paul E. Kanjorski (D-PA, 11th District) plays a key role on the committee responsible for investor protection, competitiveness of America's financial markets, retirement security, and oversight of securities regulatory agencies. Congressman

Kanjorski was first elected to the House of Representatives in 1984 after practicing as a successful trial attorney and worker's compensation administrative law judge. He recently talked with FSI about his role on and priorities for the Financial Services Committee in the 110th Congress.

Q. What are your priorities for the Financial Services Committee in 2007?

In the 110th Congress, one of my first priorities is the extension of the Terrorism Risk Insurance Act because it expires at the end of 2007. Another top priority is the regulatory reform of Fannie Mae and Freddie Mac and the 12 Federal Home Loan Banks, which we were unable to accomplish in the 109th Congress. Additionally, I would like to work on creating an optional federal charter for insurance, similar to what we have done in other areas of the financial services industry, such as banking. With respect to securities issues, we will conduct oversight on issues like the implementation of the Sarbanes-Oxley Act, the distribution of Fair Funds to defrauded investors, the operations of SIPC, and the growth of hedge funds. We will also assess proposals to enhance the competitive position of our nation's capital markets. Finally, I hope to begin a process to identify areas of our securities laws that require technical corrections or regulatory relief. I hope that broker-dealers and financial advisors will contribute their ideas to this effort.

Q. Do you envision the committee operating differently now that Democrats are in the majority?

The Committee's agenda has long reflected the interests and concerns of all its Members regardless of which party controlled the House. Members of the Financial Services Committee also have a history of working well together because financial

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We need to take enforcement actions against the bad apples in the industry, but we also need to help those who want to do the right thing to do just that.

— Rep. Paul Kanjorski

ON LEADERSHIP

John Simmers
CEO, ING Advisors Network
Chair, FSI Board of Directors



THE WINDS OF CHANGE

YOU'VE PROBABLY READ ABOUT THE PLANNED consolidation between the NASD and NYSE Regulation, which will bring together all private sector oversight for the country's 5,000 broker-dealer firms, 169,000 branch offices, and more than 650,000 NASD-registered representatives who serve 90 million Americans. The goal of this new SRO, as yet unnamed, is to eliminate duplicative, overlapping regulation, make existing regulation more effective, and reduce costs to the industry. You may also have read that FSI endorsed it and that some firms opposed it and at least one firm has challenged it in court. What you *need* to know is why FSI believes this is, if not a merger made in heaven, at least one grounded in practicality, reality, and of benefit to you and our industry.

Some of the recent rulemaking for our industry has been federal- or state-driven as a result of industry scandals that have very little to do with how independent broker-dealers conduct their business. On occasion, we have seen NYSE rules incorporated into our SRO. Those rules don't always fit us and our business model—and yet we have to live with them. Under one regulatory SRO that blends people, processes, and issues from Wall Street firms, independent broker-dealers, and insurance-based broker-dealers, we have the opportunity to influence positive changes to rulemaking through a strong presence on the NASD national and district committees that drive the process. The composition of these committees is encouraging—in many districts they now include individual advisors, branch managers, and broker-dealer executives—and are expected to carry over to the new SRO. Having served on both a national and a district committee and now serving on the NASD Board of Governors, as well as knowing many people who also have served, I am familiar with the input and dialogue that starts at the district level and is carried upward to NASD staff in regional meetings and on to Washington. It is extremely significant that, typically, as


many as a dozen senior members of NASD leadership in Washington attend and participate in regional committee meetings and discussions. It really does all start there.

One new SRO for the industry also will have a stronger voice and more credibility with states and insurance regulators. This new “go to” SRO will only grow in prominence and mutual respect among other regulators. We also believe that this regulatory consolidation brings more of the “self” back to “self regulation.” A regulatory body that understands our community is a better regulatory body and more representative of its members' concerns and issues.

NASD Chairman and CEO Mary Schapiro, who will assume the position of CEO of the new SRO, recently announced her executive team, incorporating talent and experience from both the NASD and the NYSE. We are encouraged by the depth of expertise among senior staff but will be paying close attention to how well this assembled team works together and represents all members' interests. There is no question that we must all be vigilant and attentive as the new SRO comes together, but we believe that this new SRO is our best chance for a more level playing field.

Any time the winds of significant change blow, the opportunity presents itself for stepping away from the position of “this is how we've always done it.” The new SRO has a unique opportunity to effect important changes to rulemaking—from the current dearth of cost-benefit analyses of new regulations to a process that incorporates this actively and vigorously, and from little examination of how each new rule affects different types of broker-dealers to a process that incorporates such a review. Our hope—and our expectation—is that the new SRO will result in meaningful and practical rules that are manageable by our businesses. The timing is good, the opportunity is important, and in the words of a wonderful quote—whose author is

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I hope to begin a process to identify areas of our securities laws that need corrections or regulatory relief. We have an obligation to conduct effective oversight of the SEC.

— Rep. Paul Kanjorski

services matters are bipartisan in nature. The priorities may be slightly different in the 110th Congress because of interests in advancing economic fairness or because of developments in our markets, but our goal remains the same: we need to have strong, competitive, fair, and transparent financial markets. Many of the bills that the Financial Services Committee adopts will continue to be bipartisan.

Q. What is your view of the SEC under Chairman Cox?

Investor protection is the top priority for the SEC. Since becoming chairman, Christopher Cox has recognized his role in protecting investors and advancing the SEC's mission. He has also sought to identify a bipartisan consensus on complicated and sometimes divisive issues. He has performed fairly well, but Congress should examine ways in which the SEC could do a better job going forward. We have an obligation to conduct effective oversight.

Q. FSI is concerned about the unintended consequences of the SEC's overly aggressive examination and enforcement, particularly on small investors, who primarily work with independent financial advisors, seeking advice and help for their financial future. Do you anticipate your committee addressing this issue?

The United Kingdom has developed a consultative regulatory system, and as we move forward, I expect that we might look

at the success of that model. We need to take enforcement actions against the bad apples in the industry, but we also need to help those who want to do the right thing to do just that. We can do so through consulting, cooperation, and education. In considering any reforms at home, we should look at the success of others abroad.

Q. What initiatives might we see on one of your priorities for the middle class: ensuring retirement security—in particular, enacting real pension reform that addresses current funding shortfalls?

The United Kingdom has also, in my opinion, done well in interpreting shareholder rights. Chairman Frank's new bill would give American investors a similar opportunity to cast non-binding votes on executive compensation. As chairman of the Capital Markets Subcommittee, I hope to examine further the issue of shareholder rights in the context of improving the accountability of corporations to all stakeholders. Increased shareholder accountability should help the middle class protect their interests.

Q. What are some specific ideas you have for promoting better financial literacy?

The Financial Services Committee will continue to promote financial literacy because it is a lifelong learning process that must begin at an early age. We should ensure that children learn about compound interest in elementary school and increase the economic and accounting curriculum opportunities in high school, with topics such as how to balance a checkbook or to prepare a tax return. We additionally need to educate everyone, regardless of age, about the responsibilities of having a credit card and the dangers of excessive debt. The federal government should work with businesses to sponsor seminars on investing and saving money, an initiative that has worked well and garnered a good response in my congressional district.

Q. In a January commentary by George Will, Congressman Barney Frank is described as favoring more government intervention in the economy to diminish inequality of wealth creation. How might this view influence the work of the Financial Services Committee?

A 2003 study by Harvard professor Lucian Bebchuk found that the median CEO-to-worker pay ratio exploded from 42 to 1 in 1980 to 500 to 1 in 2003. The solutions to economic inequality do not necessarily require activist government intervention. In fact, Chairman Frank's bill would empower shareholders to cast advisory votes to hold executive pay in check rather than imposing government mandates in this area. As it has long done, the Financial Services Committee will work to identify a pragmatic consensus on a solution to a problem and not advocate one policy approach exclusively.

Learn more about Congressman Kanjorski at www.kanjorski.house.gov.

FIRST PERSON

— LON T. DOLBER

“WHY I...WENT UP THE MOUNTAIN”



I've climbed Mount McKinley, Mount Hood, Glacier Peak, and Mount Rainer—three times. Last summer, my son and I climbed Mount Baker and raised \$7,000 for the Intrepid Fallen Heroes Fund as my son's service project for his high school. So when I was telling about our climb during American Portfolios' annual conference, I guess I shouldn't have been surprised when Jim Benson, chairman and founder of World T.E.A.M. Sports, which stands for The Exceptional Athlete Matters, came up

to me afterward and asked me if I'd ever thought about going to Africa to climb the tallest free-standing mountain in the world. He offered me the chance to coach and climb with seven mentally and physically challenged athletes, six men and one woman, who had previously attempted Mount Kilimanjaro 16 years ago, but were denied the summit because of a storm. I had one day to decide on Jim's offer.

I knew it would be a hard climb—not technically hard, but Mount Kilimanjaro is 19,400 feet and at that height you get half the oxygen you normally do. It would be about 56 miles of hiking over 23,000 feet, up and down. That takes a lot of endurance, mental and physical, for eight days.

The next thing I know I'm landing in Amsterdam on my way to Africa. I first met some of these extraordinary athletes in the airport and learned more about their story, which was told in an Emmy award-winning film called “Let Me Be Brave,” in 1990. They're amazing and I became really excited. The highlight of this climb was getting to know them and to see their will and determination. Few of us in business get to experience accomplishing one very specific and very big goal in a short eight days. It's a magnificent experience to be matched, as an able-bodied athlete, with the disabled and those always considered “different.” We brought our strengths and weaknesses together and accomplished the goal as a team.

After we left base camp and began the climb, we had one very tough day of acclimation climbing, up and down, up and down. I felt sick and was struggling. Tim, one of the athletes, kept helping me and smiling at me as if to say: “It's going to be okay—nothing is going to stop us.” And it didn't. We left our tents at 12:30 a.m. on a clear and cold night at our camp at 17,000 feet. The temperature dropped steadily as we climbed. We could see the lights of Arusha in the distance and the sky was filled with millions of stars. About 6:30, we made it to



January 29, 8:00 a.m.: The Magnificent Seven on Mt. Kilimanjaro's summit.

the crater's rim and had a short-lived celebration—the summit was still about an hour away. We reached the summit at 8:00 a.m. Tanzania time on January 29. The athletes were so happy with their victory. I wanted to cry but my tears were freezing my eyes shut. After 45 minutes on the summit, we began the descent, arriving back to high camp shortly after noon.

I keep reflecting on the incredible determination of these challenged athletes and on my thoughts the third night on Kilimanjaro. I was having a hard time sleeping and I opened my tent to look around. The Milky Way was above, illuminating the darkness around me. For some reason, I felt very alone that night but was thinking about my own ancestors. We focus so much on our differences in this world and on the things that separate us. In the end, perhaps it takes a lifetime to realize that all we have is each other. All I had on this climb was these athletes—and *they got me* to the top.

Jim Benson called recently and said, “Now we're going to do this bike ride....” So on April 28 and 29, I rode my bike from Gettysburg to Washington D.C. with a group of disabled war veterans. Time for my next adventure!

Lon T. Dolber, CEO and President, American Portfolios

Through donations of one penny per foot, Lon raised \$28,136 for World T.E.A.M. Sports. The 2007 Kilimanjaro climb was filmed by Wild Life Productions and will be made into a 90-minute documentary, scheduled for release in late summer 2007. You can meet these special athletes and read Lon's blog, written almost daily during the climb, at: www.americanportfolios.com/pdocs/Killa/tackling_kilimanjaro.htm. If you'd like to nominate someone for our “Why I...” feature, which gives a more personal look at members “beyond business,” please send us an email: fsivoice@financialservices.org. 📧

ON ADVOCACY

REG S-P: A NEW CATCH-22 FOR INDEPENDENT BROKER-DEALERS?

WHAT DO APPLE, AOL, CHOICEPOINT, WACHOVIA, AND AT&T have to do with independent broker-dealers? And no, we don't mean the fact that at least several of them could qualify as major employee distractions.

All of these firms recently were accused of, admitted to, or have been sued for violations of privacy—failure to safeguard Social Security numbers, account access information, telephone numbers, and other customer information. With that as the broad, contextual backdrop, it's no surprise that “privacy issues” are a hot topic in the media, among consumers, and in Congress and regulatory bodies. Unfortunately, a new twist on how to comply with various rules on safeguarding privacy has caught some independent broker-dealers in a catch-22—and in the crosshairs of the SEC.

When Regulation S-P was implemented in 2000, its original intent was to prevent banks and other financial institutions from sharing customer information with other companies that would be interested in marketing their services to those same individuals without permission from the customer. Regulators didn't consider the information-sharing applications of Reg S-P to financial advisors changing broker-dealers, and clients—and their accounts—moving with them. The client account transfer process, as you well know, is cumbersome, time-consuming, and paper-intensive, and is the single most prevalent source of client complaints to firms and regulators. It also is a routine and expected part of client service when advisors change broker-dealers. Many firms assist advisors in the process so that clients bear as little inconvenience as possible.

Recently, however, perceived “violations” of Reg S-P have resulted in the SEC preparing to file its first case against an independent broker-dealer. It also is actively investigating other firms. The SEC's position is that when advisors are making preparations for clients' account transfers, sharing client information with the new broker-dealer without each client's prior consent is a violation of Reg S-P. Moreover, SEC staff believes that a firm violates Reg S-P if it does not disclose in its privacy policy that advisors are allowed to continue using client information when they leave. This expected enforcement action

will have far-reaching adverse consequences to clients, advisors, and broker-dealer firms.

The SEC's concerns appear to fall into three primary areas, says Jeff Montgomery, CEO of NFP Securities, Inc.: For a rep transitioning to a new broker-dealer, does the rep's sharing of client information conflict with the prior broker-dealer's privacy policy? Does your own privacy policy reflect your firm's information sharing practices? Is the client given the ability to opt out? Montgomery, who was a panelist for “Recruiting, Rules, and Roadblocks,” at OneVoice, the 2007 FSI Broker-Dealer Conference, says that concerns about Reg S-P have put a chill on recruiting and transition assistance that many independent broker-dealers ramped up during the last five years. “Each independent broker-dealer firm would be well served by reviewing and fine-tuning their privacy policy and the way



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they receive customer information in the course of a rep transition and by consulting very competent legal counsel on how to interpret the requirements of Reg S-P,” he says.

The SEC's position appears to conflict with NASD Notice to Members 07-06. According to Peter Anderson, of the Atlanta office of law firm Sutherland Asbill & Brennan LLP, NTM 07-06 provides guidance and outlines suggested procedures for a firm's supervision of registered representatives transferring from another firm, including that the new broker-dealer must conduct thorough due diligence on a potential rep's existing scope of business. “Unfortunately, NTM 07-6 doesn't come with how-to guidance on addressing Reg S-P information sharing issues,” Anderson says. “The pending SEC enforcement activity

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NEWS BRIEFS



Fall Discussions, October 9-11, held in conjunction with **FSI's 4th Annual Public Policy Day** in Washington, should be on your calendar. Public Policy Day will be Wednesday, October 10, and once again will feature Capitol Hill visits. Mark your calendars now and watch for further information in June.

Data collection for the **2007 Broker-Dealer Financial Performance and Compensation Study**, conducted annually for the past 12 years by Moss Adams LLP, is now complete. The results will be discussed in a series of broker-dealer members-only Web conferences in late August or early September. Please be looking for a schedule of these Web conferences in your email from FSI. A report on the Study, which examines the strategies, performance, and business practices of independent broker-dealers, will appear in the September issue of *FSI Voice*.

FSI's series of free, **members-only Web conferences** continues with four scheduled for May and June. "The Benefits and Pitfalls of Dual Registration with an Independent RIA" will be held May 23 for financial advisors. "A Review of the New NASD Rules of Arbitration Procedures and Discovery Guide" will be held May 16 for broker-dealer executives. "Variable Annuity Sales Practices" will be held June 13 for broker-dealer executives and June 20 for financial advisors.

OneVoice: FSI's 2008 Broker-Dealer Conference will be held January 28-30 at the Omni Orlando Resort at ChampionsGate in Orlando, Florida. Mark your calendars now and watch for further information in July about the conference program.

Further information on the items above is available at www.financialservices.org.

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MARKETING MADE STICKY



One “must read” business book has been getting a lot of buzz lately. **Made to Stick: Why Some Ideas Survive and Others Die**, by Chip Heath and Dan Heath, is on the *Wall Street Journal*’s Bestseller List and has been written about in *Business Week*, *Inc. Magazine*, *Fast Company*, and the *Los Angeles Times*. Find out more about what’s making Stick...well, stick. Visit the blog at 800ceoread.com, where there’s also a podcast interview with Dan Heath. Another podcast can be found at ducttapemarketing.com. The authors’ Web site and blog is madetostick.com.

BLOGGERS ON BLOGS



If you’re into blogs, check out what *Fast Company* magazine calls the top sites for and about bloggers: Bloggers Blog (bloggersblog.com), Blog Business Summit (blogbusinesssummit.com), and Blogebriety (blogebriety.com). The NASD may frown on advisors having their own blogs, but that doesn’t mean you can’t read and enjoy others’ blogs.

NEED-TO-KNOW



According to OneVoice presenters Ashley Agard and Nina McKenna, both of ING Advisors Network, financial advisors who earn less than \$250,000 are typically invited to about 11 work-related conferences each year, attending 8 of them. They rate 2 of the 8 extremely or very valuable. Advisors who earn more than \$250,000 are, on average, invited to attend about 17 work-related conferences each year, and attend 3. This group rated .6 of them—yes, less than one—of the 3 as extremely or very valuable. Both categories of financial advisors rank their needs for information as 1. sales and marketing, 2. practice management, and 3. technology. Do you agree? How many conferences do you attend? How can FSI help you with your “need to know” list? Please send us an email identifying topics you would find most valuable in FSI*Voice*, through a Web conference, or in some other format or setting: fsivoice@financialservices.org.

DEAR WORKFORCE MANAGEMENT: HOW DO WE...?



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WHAT ARE YOUR CUSTOMERS REALLY WORTH?



OneVoice keynote speaker Michael Treacy reminded conference attendees at his January session that there’s no more important person in an organization than the one who pays the bills: your customers. A new book from Wharton School Publishing offers case studies to help companies estimate the lifetime value of their customers. This information, say the authors, can be used to make better strategic decisions about customer acquisition, service, retention, and segmentation. Read an excerpt from “**Managing Customers as Investments**” at the Knowledge@Wharton Web site: knowledge.wharton.upenn.edu. Use the search function to find the excerpt, published on February 28. 📖

ON LEADERSHIP

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unknown—if we don't change direction soon, we'll end up where we were going. I think you'll agree *that* direction proved to be outdated, difficult, costly, and in need of some winds of change.

If you would like to discuss any concerns or questions about the new SRO, I'd be happy to hear from you.

John Simmers

*CEO, ING Advisors Network
2007 Chair, FSI Board of Directors*

In November 2006, seven FSI members were elected to positions on six NASD District Committees. To read more about them, go to www.financialservices.org. To view all current NASD District Committees' members, and to get updates on the consolidation, go to www.nasd.org.

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ON ADVOCACY

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has raised a new issue for the industry: What information can be shared as preparation for account transfers when reps plan a broker-dealer change? If the views of the SEC enforcement staff are adopted as Commission policy, a rep's disclosure of non-public personal client information for the purpose of facilitating account transfers may violate Reg S-P. As a result, the SEC regulation aimed at protecting customer privacy may create an irreconcilable conflict—preventing the new firm from receiving information necessary to satisfy NTM 07-06, while exacerbating delays associated with moving client accounts."

While the NASD does appear to acknowledge IBD firms' assertions that the client relationship is first and foremost between the rep and the client, not the broker-dealer and the client, "The SEC, through its pending enforcement action, obviously rejects this position," says Anderson. "If they did accept it, it certainly would mean they regard the transfer of certain client information, obviously with appropriate safeguards, as advancing the client's interests and investor protection. But until the SEC gives guidance and relief on the pending Reg S-P issues, the best advice for the broker-dealer bringing on a new rep is buyer beware—because no good deed goes unpunished."

FSI has published a member briefing on Reg-S-P issues. Download it on our Web site: www.financialservices.org.

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