



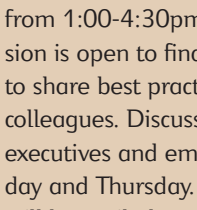
NEWS BRIEFS

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. Featured speakers FSI has confirmed



Karen Tyler

include Karen Tyler, incoming president of NASAA, and Mary Schapiro, chairman and CEO, NASD. Please check the Web site regularly for updated information on registration and additional speakers. A Financial Advisor Roundtable has been added this year. Scheduled for Tuesday, October 9,



Mary Schapiro

from 1:00-4:30pm, this facilitated discussion is open to financial advisor members to share best practices and ideas with colleagues. Discussions for broker-dealer executives and employees will be Tuesday and Thursday. A detailed schedule will be mailed soon.

Mark your calendar for two upcoming **Web conferences: July 18, 1:00pm ET**, "Cyber Security for Broker-Dealer Executives," with Rob Erzen of FSI Sponsor Arthur J. Gallagher & Co. and Jon Neiditz of the law firm Lord, Bissell & Brook; **July 25, 1:00pm ET**, "Cyber Security for Financial Advisors," also presented by Erzen and Neiditz.

continued on back cover

The \$500 Lapel Pin

by Joe Russo

A common political saying is that "early money is like yeast, because it helps to raise the dough." In fact, this saying was turned into a phenomenally successful political action committee, or PAC, called EMILY's list. EMILY is not a woman—it's an acronym for the saying above. In 2006, this PAC raised \$32 million, more than any other PAC.

There are hundreds of PACs, large and small, representing diverse interests—Friends of the Earth, U.S.-Cuba Democracy, the National Rifle Association, National Beer Wholesalers Association, and the National Association of Realtors (the top contributor to federal candidates in 2005-06), for example. There are also plenty of myths and misconceptions about PACs. Chief among them is that money is used to "buy votes" or that a PAC is simply the price to pay to play the game. A PAC is neither of these, but PACs have been an important part of our political process since 1944, when the Congress of Industrial Organizations (CIO) raised money to help re-elect President Franklin Roosevelt.

A PAC is a legal mechanism for individuals to combine financial resources to support political candidates who share their interests. In 2005, FSI established FSI PAC with the same goal: combining resources to support political candidates who share our interests. FSI PAC does not contribute to any candidate to "buy access." We believe that FSI and our members have the right of access as citizens in a representative democracy.

FSI PAC is bipartisan—during the 2005-2006 election cycle, FSI PAC made contributions to 13 Republican and 2 Democratic candidates for federal office. We supported these candidates because they share our philosophy—*responsible regulation is essential to a free market*. FSI PAC is a tool to maximize our influence on that philosophy.

An important part of our advocacy mission is to gain credibility and visibility with those in Washington who oversee regulation of our businesses. During the last three years, FSI has made significant progress on that goal, offering a solutions-based approach to improving the regulatory environment. Initiating dialogue with members of Congress on regulatory issues that run counter to their, and our, philosophy of responsible regulation is crucial.

The most recent issue that FSI is focused on is the SEC's stated intent to consider repealing 12b-1 fees, which the SEC views as "investor-unfriendly." FSI believes this is yet another example of regulators' view that the lowest cost model is the best model for investors.

continued on page 2



ON ADVOCACY

GONE BUT NOT FORGOTTEN

by David Bellaire

On September 14, 2006, more than 100 FSI members went to Capitol Hill to meet with 66 representatives, senators, and their staffs to discuss issues of concern to their business. Teams comprised of financial advisors, broker-dealer CEOs, the chiefs of compliance and operations, and others personally delivered FSI's message about the growing need for financial advice, the unintended consequences of the current regulatory environment on those who need advice the most, and our call for support of the Compliance, Examinations and Inspections Restructuring Act of 2005 (H.R. 4618). The bill, sponsored by Rep. Vito Fossella (R-NY 13th District), would have forced the SEC to make substantial changes in how it fulfills its regulatory responsibilities. Regrettably, the legislation failed to move out of committee.

So, were the efforts of our members in vain? The answer to that question is an emphatic "No!" Due to the hard work of FSI, its members, and other concerned industry groups, SEC Chairman Christopher Cox announced that he would implement several of the reforms to the agency's inspection and examination programs that were contained in the bill. Specifically, the Chairman announced the following reforms:

- The SEC's Office of Compliance, Inspections and Examinations (OCIE) will be required to notify the Chairman and Commission prior to initiating a sweep examination.
- OCIE will be required to notify registered entities (e.g., broker-dealers or investment advisors) of the status of an investigation after 120 days and provide formal notification upon completion of the investigation.
- Enhancements will be made to the pre-examination process to avoid duplication of examinations.

Also due to our strong support of and involvement with Congressman Fossella's SEC reform legislation, we were asked to give input on a letter from Congressman Fossella and Chairman Richard H. Baker of the Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises to the Government Accountability Office (GAO). The letter requested a comprehensive study of the SEC's examination and inspection programs, including "whether the SEC utilizes an effective risk-based examination model to identify compliance risks at registrants of similar size or business model and directs examination resources appropriately."

Clearly, your lobbying efforts had a positive impact on the current regulatory environment.

David Bellaire can be reached at david.bellaire@financialservices.org.

THE \$500 LAPEL PIN

continued from cover

While we agree with Chairman Cox's statement that we operate in a significantly different environment than when the 12b-1 rule was enacted, we beg to differ on how 12b-1 fees are "used."

Chairman Cox and others at the SEC describe 12b-1 fees as "a sales load in drag." NASAA President Joe Borg, Alabama Securities Commissioner, recently called 12b-1 fees an "abuse." If you accept the premise that "marketing"—the original intent of 12b-1 fees—includes establishing and nurturing a long-term relationship of mutual trust, 12b-1 fees are the small price our clients pay for that relationship. The possible repeal of 12b-1 fees is a serious issue that demands our involvement and action. FSI is monitoring the issue, educating legislators, and clearly presenting our position on the valuable role that these fees play for financial advisors to provide ongoing service to clients.

Because "advocacy" is one of those rather nebulous words—What is it really?—you may ask yourself: What can I do? What do I know about advocacy? The most important thing you can do is to participate actively with others who share the goal of defending, protecting, and preserving our business model and our ability to serve many types of clients. It requires an investment of your time, energy, and money. A contribution to FSI PAC is all of those things. It signals your intent to invest yourself in our cause. It means you've recognized one of the tools we have at our disposal: combining our resources to support political candidates who share our interests.

The key to success is simple: strength in numbers. FSI Broker-Dealer Members support approximately 130,000 NASD-registered representatives. If each FSI member contributed \$500 to FSI PAC, independent advisors would have a significant voice in the election of members of Congress. Even if you can make only a contribution of \$100, you will be part of the voice and the process. We need each other at this very important time. Please help FSI defend our practices with a contribution to FSI PAC today. I believe you'll wear your FSI PAC lapel pin proudly. 🇺🇸



Joe Russo is chairman of Advantage Financial Group in Naples, Florida, and Cedar Rapids, Iowa. Advantage Financial Group is the premier OSJ within National Planning Corp., managing more than \$1.5 billion in client assets through advisors in 28 branches. Russo was elected to the FSI Board of Directors in 2007, representing independent financial advisors. To read more about FSI PAC, visit the FSI Web site: financialservices.org, Advocacy Action Center, FSI Issues.

THE PENSION PROTECTION ACT: WHAT'S IN IT FOR YOU?

IT'S 393 PAGES LONG, DIFFICULT TO READ, and full of "legislativese": "In the case of a plan described in subparagraphs (B) through (F) (and so much of subparagraph (G) as relates to such subparagraphs) of subsection (e)(1), in lieu of the requirements of clause (i), audits of the arrangement shall be conducted at such times and in such manner..." You get the idea. (And if you don't, just ask DALBAR CEO Louis Harvey, who read every word of every page during 10 years monitoring the various iterations.)

It also may be the most important piece of legislation affecting financial advisors' businesses in a very long time. It's the Pension Protection Act (PPA). The watershed legislation, written and passed in 2006, addresses the vexing problem of underfunded corporate pensions, but more important to independent broker-dealers and financial advisors are the provisions affecting 401(k) plans. Specifically, the PPA removes barriers that prevent companies from automatic enrollment, ensures that workers have more information about the performance of their accounts, gives workers greater control over how their accounts are invested, and provides greater access to professional advice about investing for retirement. By removing most of the liability for both plan sponsors and advisors, "fiduciary advisers" can now receive fees for advising individual 401(k) participants—without liability for all the participants in the plan.

According to Harvey, "Under the old laws, if you were advising 1, 2, or 10 participants of a \$100 million plan, your liability was \$100 million. That was scary. Under the PPA, your responsibility is limited to the participants that are your clients. This is a huge change. But what's really significant is that it represents an entirely new line of business."

Historically, notes Harvey, advisors have had to learn about new products and how they fit into their practices. "This is fundamentally different," he says. "Advisors have gotten paid for either order flow

continued on page 4



WHAT'S NEW:

"Fiduciary advisers" can advise individual 401(k) participants, using a fee model, without liability for the entire plan

WHAT'S NEXT:

Go through a risk assessment; establish a strong "PPA-compliant" RIA; continue monitoring updated guidance from the Department of Labor (DOL)

WHAT'S THE UPSHOT:

An entirely new line of business that can lead to advising on participants' total household assets, comprehensive financial needs, and future rollovers



continued from page 3

or fee-based services to the high net worth market. Very few have worked with the ‘mass affluent’ of 401(k) participants we have now and will have more of in the future.” According to DALBAR research, 89 percent of those with more than \$100,000 in a 401(k) want a personal advisor. DALBAR estimates the current need at 60,000 advisors with 300 clients each. And there are only about 1,500 advisors now practicing in the 401(k) space, with most advising plan sponsors, not participants.

Jason C. Roberts, Esq., an associate with 2007 FSI Law Firm Sponsor, Edgerton & Weaver LLP, in Hermosa Beach, California, agrees with Harvey about the enormous potential for new business for financial advisors. “PPA opens the door to reaching participants’ household assets and future rollovers,” says Roberts. “An estimated 1 in 10 employees who will use a fiduciary adviser has household assets averaging \$150,000 and 1 in 20 will be in a position to roll over plan assets averaging \$500,000. It’s clear that the business potential is large.” The “sweet spot,” according to Roberts, is plans with participant average balances of \$250,000. Participants whose 401(k) balance is \$100,000 or below are better served by a plan’s qualified default investment alternative (QDIA).

While the business potential is significant, the situation is also very fluid, cautions Roberts: “We know enough now to help broker-dealers and advisory firms get into this market, but firms and individual advisors are doing so with caution.”

Chief among the caution flags is the PPA requirement that advisers act as fiduciaries, with all that entails:

the duties of prudence, loyalty—advice must always be in the best interests of the employee—diversification, and adherence to all laws and documents governing a plan. “Given that some broker-dealers have taken the position that a registered rep is never a fiduciary, and they therefore have not defined an appropriate standard of care, firms may have to make significant amendments to compliance materials and service agreements,” says Roberts. “Even for firms that have allowed advisers to act as fiduciaries, due diligence procedures for monitoring their activities must be established. Creating a separate, PPA-compliant RIA is strongly recommended.” Harvey says that while broker-dealer executives are understandably somewhat nervous about the “F” word, the important point to remember is that liability now is almost identical to every “retail” client that broker-dealers and advisors already have. “This allows firms to gain ‘retail’ clients on a ‘wholesale’ basis,” he says.

The PPA specifies that fiduciary advisers can use a computer model to provide investment advice—as long as the model is certified by an “eligible investment expert” who meets Department of Labor requirements. In addition, an annual audit is required by an independent auditor subject to detailed scrutiny of the firm’s technical training and proficiency.

While “proceed with great care and be PPA-compliant from day one” may be a big undertaking, another challenge for individual advisors will be effectively serving the volume of new clients. “If advisors position themselves well, dot their i’s and cross their t’s, and pass muster with a plan sponsor, they may one day find themselves saying, ‘I just added 75 new clients.’ That’s a big-time commitment and a lot of record keeping,” Roberts says. “Fortunately, PPA allows individual advisors to engage other advisors to work collaboratively serving clients.”

Although broker-dealers and individual advisors stand to benefit greatly from a new line of business and plan sponsors will benefit from lower costs and higher growth in the assets of their 401(k) plans, the biggest winners are employees, says Harvey. “The ‘just educate them’ approach, which turned preparing for retirement into a do-it-yourself model, clearly has failed,” he says. “That’s borne out by almost all research done during the last 10 years. It costs a fortune and has had virtually no impact.”

PPA AND 401(K)s: NEED TO KNOW

Complete information on the Pension Protection Act of 2006 can be found at the Web site of the Department of Labor (DOL): dol.gov/ebsa/pensionreform.html. DOL has released two bulletins with further guidance on provisions included in the Pension Protection Act of 2006. A recent one is intended to clear up confusion over investment management fees. Bulletins can be found on the DOL Web site under "Other Guidance."

DALBAR offers extensive bulletins and advice on financial advisors and the PPA: FiduciaryAdviser.com. DALBAR also is permitted by the SEC to publish the information necessary to select, monitor, and audit individual advisors on plan sponsors' behalf. See FiduciaryAdviser.com for more information.

FSI Law Firm Sponsor Edgerton & Weaver, LLP hosts the Pension Protection Act (PPA) and Fiduciary Adviser Legal Resource Center at ppa-law.com and fiduciaryadviserlaw.com. These sites provide a comprehensive collection of PPA legal and compliance resources for broker-dealers, investment advisors, and plan sponsors seeking to offer participant-level investment advice to 401(k) plan participants.

Additional articles and guidance on assessing PPA-related risks can be found at edgertonweaver.com.

The FSI Web conference on the PPA is archived and can be found at: financialservices.org under "Events" on the home page.

The Employee Benefits Research Institute (EBRI) estimates that there are 42.4 million active participants in 401(k) plans with total assets of \$1.9 trillion. Earlier this year, IBM became the first large corporation to begin offering financial planning services to all 127,000 of its U.S. employees, at a cost of \$50 million over 5 years. Ninety-one percent of IBM employees have a 401(k) and the average balance tops \$115,000. (Note: IBM's 401(k) participants are already taken—services will be provided by Fidelity Investments and The Ayco Company.) Read more about 401(k) plans at ebri.com. 📄

NEED-TO-DO: A RISK ASSESSMENT CHECKLIST

Jason Roberts of Edgerton & Weaver, LLP advises individual advisors and supporting broker-dealers to develop a thorough and detailed checklist for assessing the risk involved in new business under PPA, including:

- Full compliance with state and federal securities laws
- Decisions on the model to use—either the broker-dealer's corporate RIA or the individual advisor's RIA
- Scrutiny of due diligence and compliance procedures because of the PPA requirement that advisers act as fiduciaries
- Changes to disclosure documents regarding fees, services to be provided, past performance and historical returns of investment options, and potential conflicts of interest
- Disclosures must be provided to the client when advice is first given and at least annually thereafter. Most important, says Roberts, "Your documents need to be in plain, easy-to-understand language. Given the increased focus on excessive fees and revenue sharing, due to a flood of lawsuits against 401(k) providers, pay particular attention to the specificity and clarity of your disclosures." 📄

WHAT ABOUT THOSE FEES?

The PPA brought one more acronym to twist the tongue: EIAA, or Eligible Investment Advice Arrangement. Simply put, the EIAA is all about the fees. Louis Harvey, CEO of consulting firm DALBAR, offers the following primer on fiduciary adviser compensation under the PPA:

- Level compensation (fees can't vary based on the investments chosen) is essential for an EIAA and compensation arrangements must comply with guidelines for adviser payment under the PPA.
- The PPA specifies compensation arrangements as: an asset-based fee that is uniformly applied to all investments either in the entire plan or in those participant accounts that use the adviser OR a specified dollar amount that is paid by either the plan, participants that use the adviser, or the plan sponsor.
- Compensation for advice must be reasonable—in the range of \$300 to \$1,500 per participant per year.
- Five payment options in two categories are offered—the overall plan assets are charged, the plan sponsor pays a single fee to the fiduciary adviser, a 12b-1 fee is used to pay the fiduciary adviser, the participant's account is charged, or the plan sponsor pays the participant's fee.

Harvey says that the annual fixed dollar amount is preferable for the participant with a higher 401(k) balance. "An adviser can't do much for a person with \$2,000 in a 401(k), and it's not a good deal for the participant to pay \$500 on that amount. We believe that the flat fee arrangement will attract the right type of participant—the ones advisers can really add value to." For further information on fees and EIAA requirements, see: FiduciaryAdviser.com. 📄

— ROGER OCHS

“WHY I...RUN!”



About 10 years ago my wife, a lifelong runner, got me involved in running. After hearing colleagues describe the fun of running the Boston Marathon, I decided to make that my goal.

The four months of training is very difficult, especially because in Texas it's hard to replicate the Boston course—we're flat; they're hilly. I also train early in the morning, in the dark, and without crowds of spectators or other runners. What's exciting is that each week you run a little farther. One week you've never run eight miles before, and then you do. And next it's 10 miles, 13 miles, 20 miles. It's similar to setting any other big goal—you can't eat an elephant all at once, so you just take one bite after another.

I ran my first Boston Marathon in 2001, with a goal of 4:00. I finished in 3:58. This past April was my sixth Boston Marathon and by far the worst conditions. On Sunday when I arrived, the weather was brutal— heavy rain, 50-mph wind gusts, temperature in the 30s. But by race time, the rain had slowed, the wind wasn't too bad, and the temperature was in the 40s. Unbelievably. I had my best run ever—3:44:51. Three colleagues from H.D. Vest also ran: Scott Rawlins, our national sales manager; Casey Griffin, our compliance manager; and Tom Karsten, one of our top financial advisors.

The most wonderful part of the race is the amazing crowds that come out to support the runners. There are usually about half a million people on the streets of Boston, lined up from beginning to end, six to seven deep. It's very moving to see so many people cheering on people they don't know. And they stay until the last runner crosses the finish line, about six hours. As for 2008...well, every year I've "retired" right after the run. But check back with me in the fall!

Roger Ochs, JD, CFP®, CLU, ChFC
President, H.D. Vest & Company, Irving, Texas



Roger was one of approximately 20,000 runners who ran the 26-mile, 385-yard Boston Marathon course this year. 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.

IN PARTNERSHIP FSI GRATEFULLY ACKNOWLEDGES OUR PREMIER, SUSTAINING, LAW FIRM, AND MEDIA SPONSORS FOR 2007.

PREMIER



SUSTAINING

AIM Distributors, Inc.
AllianceBernstein Investments
Allianz Life Financial Services, LLC
American Funds Distributors, Inc.
American Skandia, a Prudential Financial Company
AON Risk Services, Inc.
Arthur J. Gallagher & Co.
AXA Distributors, Inc.
CNL Securities Corp.
Comerstone Real Estate Funds
Curian Capital LLC
DST Systems, Inc.
Fidelity Investments
Financial Database Services
Genworth Financial
Griffin Capital
The Hartford Life Insurance Co.
ICON Funds

Investigo Corporation
John Hancock Funds, LLC
Laser App Software
Laserfiche Document Imaging
MoneyGuidePro
Morningstar, Inc.
Moss Adams LLP
OppenheimerFunds Distributors, Inc.
Pacific Life
Petroleum Development Corp.
Putnam Investments
Seabury & Smith, Inc.
SEI

LAW FIRM

Briggs & Morgan, LLP
Edgerton & Weaver, LLP
Marshall, Dennehey, Warner, Coleman & Goggin
Tate Lazarini Brady & Guerra, PLC

The Sack Law Firm PLLC
Winget, Spadafora & Schwartzberg, LLP

MEDIA

Boomer Market Advisor
Broker Dealer Journal
Financial Planning magazine
Highline Media, publishers of Research & Wealth Manager magazines
Investment Advisor magazine
InvestmentNews

The Financial Services Institute is independent from and not affiliated with any of our sponsor companies. Sponsorship of the Financial Services Institute does not suggest that our sponsors recommend or endorse any of our positions or our advocacy initiatives.

NEWS BRIEFS

continued from cover

FSI recently launched a new advertising campaign designed to strengthen awareness of our mission of advocacy and recruit new members to join our grassroots approach. "Advocacy is Not a Spectator Sport" is running in industry publications through the end of the year. A second ad is available for Broker-Dealer Members' publications.

FSI is pleased to announce a new member benefit: **Higher Limits Excess E&O Program**. The policy, which begins where the broker-dealer's E&O group policy ends, can be for an individual advisor or the corporate entity and features comprehensive coverage for RIA, registered representative, and life insurance agent activities. Coverage is available for up to \$5 million in excess of group E&O coverage. For further information on all of the program's features, visit the Web site: financialservices.org.

FSI Voice is published five times a year by the Financial Services Institute. FSI is the membership and advocacy organization for independent broker-dealers and independent financial advisors.

Dale E. Brown, CAE
President & CEO
dale.brown@financialservices.org

Linda Arcangeli
Events Manager
linda.arcangeli@financialservices.org

David T. Bellaire, Esq.
General Counsel & Director of
Government Affairs
david.bellaire@financialservices.org

Amy W. DeFaveri
Director of Marketing
amy.defaveri@financialservices.org

Jill C. McKenzie
Director of Membership
jill.mckenzie@financialservices.org

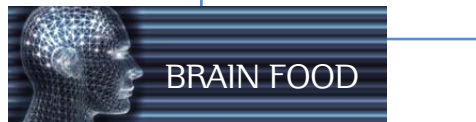
Brenda Stone
Database Administrator
brenda.stone@financialservices.org

To receive FSI Voice via email, in an easy-to-read, printer-friendly PDF, please send a request to the email address below.

We welcome your feedback:
FSIVoice@financialservices.org
Or call us at 888 373-1840.

www.financialservices.org

FINANCIAL
SERVICES INSTITUTE



800
800ceoread

EARBUD ALERT 800-CEO-READ blog lists its Top 10 podcasts that readers tuned in to during the first four months of 2007, including ones from Stephen Covey (the Everyday Greatness interview) and Dan Heath (author of the best-selling book **Made to Stick**). Find links to these podcasts at 800CEOREAD.com.

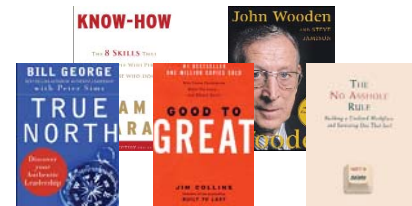


GETTING OUT The Web site of the Small Business Administration has a section devoted to succession planning for small business owners. Go to sba.org and click on "Exit Strategy" under the "Small Business Planner" heading.

SHARP
BRAINS

LOSING YOUR MIND? Or just losing your mind worrying about losing your mind? The fear of mental decline tops the list of the downsides of aging. But new "mental workout" exercises and techniques can help you—and your aging clients—reduce the risk of brain fade. Read about Staying Sharp, a joint project of AARP and the Dana Alliance for Brain Initiatives; SharpBrains.com, Nintendo's Brain Age game; and Posit Science's Brain

Fitness program in the May 9 issue of Forbes.com newsletter. Find it on the Forbes Web site by entering "brain fitness" in the Search box.



DEBUNKING THE SUPERHERO CEO According to a recent "In the Lead" column in *The Wall Street Journal*, the latest surge of business books doesn't feature many "celebrity CEOs" a la Jack Welch. Instead, a new back-to-basics era of business books is focusing on "the nitty gritty tasks of running companies, analyzing complex data to make smart decisions, and expanding undervalued assets," says the WSJ. A few new titles actually debunk the myth of the superhero top executive. Among those books the WSJ mentions are: **True North: Discover Your Authentic Leadership**, by Bill George, the former CEO of Medtronic; **Know-How**, by executive coach Ram Charan; and the enduring classics **Good to Great**, by Jim Collins and **Wooden on Leadership**, by legendary UCLA basketball coach John Wooden. The WSJ also notes a top-seller with the...um, interesting title of **The No Asshole Rule**, by Stanford University business professor Robert Sutton, about bullies who "do their best to destroy employees at work."

Financial Services Institute, Inc.
900 Circle 75 Parkway
Suite 860
Atlanta GA 30339

FIRST CLASS PRESORTED
US POSTAGE
PAID
ATLANTA GA
PERMIT NO. 686

RETURN SERVICE REQUESTED