

FSI Voice

DECEMBER 2010

12/10

FOR MEMBERS OF THE FINANCIAL SERVICES INSTITUTE

VOICE OF INDEPENDENT BROKER-DEALERS AND INDEPENDENT FINANCIAL ADVISORS

FINANCIAL SERVICES INSTITUTE



“Expanding the vision”

As FSI enters its eighth year as the voice of independent broker-dealers and independent financial advisors, 2011 Chair of the Board Bill Dwyer looks forward to FSI continuing to have its fingerprints in many areas. “There certainly is no shortage of current issues for us to tackle,” says Dwyer, the president of national sales and marketing for LPL Financial. “But we must expand our thinking and vision for a much longer period.”



Q *What are the priority advocacy issues for FSI in 2011?*

A FSI has done an extraordinary job in becoming a key influential body at both the regulatory and legislative level, but our work continues. Going forward, we want to be very attuned to all the issues that independent advisors face, not just from the regulatory aspect, but as owners and operators of small businesses. For example, one of our goals is to influence the outcome of the independent contractor issue—that’s not a regulatory issue; it’s really a tax issue. And it has the potential to dramatically affect the business model of our industry. If you think about how fluid and dynamic the landscape is right now, you can understand why I say that we have to have our fingerprints in many areas. We continue to be focused on the issue of changes to 12b-1 fees and the SEC’s fiduciary study. These are high priorities. But much of 2011 will be devoted to establishing the foundation for our new 5-year strategic plan (see page 2). It’s critically important that we meet the needs of our advisor members, as well as our broker-dealer members. Much of what we’ll work toward in the strategic plan has that as its goal.

News Briefs:



voice Registration for

OneVoice 2011, the annual FSI Broker-Dealer Conference, is open. Don’t miss the opportunity to hear keynote speakers Rick Ketchum, Alicia Munnell, and Peter Sheahan, along with the 19 educational sessions in 5 tracks. To register, visit Broker-Dealer “Events” on the website. Get updates on **Twitter: follow FSIOneVoice.**  A new on-demand web conference on the new ADV Part 2 is now available on the FSI website. This members-only presentation is presented by 2010 FSI Law Firm Sponsor Sutherland Asbill & Brennan. One hour of CE credit is offered.  Stay up to date on all our events, advocacy activities, and member benefits by visiting financialservices.org regularly. Follow us on Twitter (twitter.com/FSIDaleBrown) and join our LinkedIn group and Facebook page.



FSI welcomes **Heather Almand** as our new director of communications and media relations. Almand joins FSI from Intuit Financial Services and, prior to that, the Financial Planning Association, where she was the communications and public relations director. Learn more about Almand and her FSI role on the website.

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Q How can FSI better meet the needs of advisor members—and how can their more robust involvement help FSI achieve its goals?

A Because of the current environment, we can say unequivocally that the advocacy mission of FSI has never had more significance for advisors than it does today. Just that role alone creates more value for advisor members than we could have imagined when FSI was founded in 2004. But it’s imperative that we communicate more frequently and more proactively with advisors and let them know what we’re engaged in and how they can help. Member involvement is so important to our goals. We just completed a series of “personal advocacy” meetings that included a dozen FSI members visiting with their senators or representatives and discussing the independent contractor issue. (See the article on page 7.) This tactic not only generates a stronger feeling of personal involvement by members, it also lets us leverage the “groundswell,” if you will, on legislative issues. Scale matters. We represent 188,000 independent advisors who are local business owners and who can have influence on issues that affect them. The truth of the matter is that on almost every piece of legislation, it comes down to swing votes. All members of Congress are elected *somewhere*—and they’re concerned about the constituents who put them in office. Personal member involvement really can influence swing votes on issues such as the potential change to independent contractor status.



Mari Buechner, 2010 chair of the FSI board, and Bill Dwyer, 2011 chair. Buechner led the board through the five-year strategic planning process to create and shape FSI’s future. “Planning is an expectation of leadership and our board embraced this opportunity,” says Buechner. “The process energized our leaders to put in place a plan to position FSI as the recognized and powerful advocacy voice for independent broker-dealers and financial advisors. It will ensure that our core advocacy initiatives carry forward, which is vital to our industry’s longevity and success.”

2015: Year in review

When the FSI staff and board embarked on a five-year strategic planning process in July, the goals were several: Research and understand what we know about ourselves, analyze the current and anticipated legislative and regulatory environment, and then develop several scenarios that paint a vivid picture of what FSI will look like in 2015. The staff also developed metrics to apply to each scenario so that the vision would be realistic and actionable, says Dale Brown, president and CEO. Among the vision points for FSI at year-end 2015 are these:

- “FSI is firmly established and widely recognized as the voice of independent advice. This is no longer merely a marketing tagline as tens of thousands of FSI members clearly understand and appreciate the positive results of FSI’s work.”
- “Every legislative or regulatory change that is significant to providers of independent financial advice has FSI’s fingerprints on it.”
- “Our senior staff and volunteer leadership are interviewed on CNBC, FOX Business, and Bloomberg whenever any major regulatory or market development affects advice.”
- “The regulation of financial advice, while still far from perfect, is more effective and less burdensome than it was five years ago. The real beneficiaries of regulation that recognizes how advice is delivered in the 21st century are millions of small investors who are no longer the underserved. Their need for professional help in achieving their ‘Main Street’ goals is met by the advisor of choice: independent financial advisors.”

Q *How will the new strategic plan influence FSI's mission?*

A Working with a facilitator, the FSI staff created a vision for what the organization will look like in 2015. Then the board spent time considering all the changes embodied in the possibilities of that vision. While FSI has done an outstanding job earning credibility and getting to a position of real influence in Washington, we must expand our thinking and vision for a much longer period, getting in front of issues. It's the nature of advocacy to respond to current dynamics, but we want to shape issues much further out. One overarching theme reflected in the 2015 vision is an enhanced value proposition for members and an expanded membership base. We believe that broker-dealer members recognize the value they receive for a very reasonable cost. At the advisor level, we want to make sure we're delivering and talking about our value to them. FSI's responsibility is to make sure members *get* engaged and *stay* engaged.

Q *How do you describe your leadership style?*

A Leadership in an association needs to be both collaborative and action-oriented. When you're serving members from diverse backgrounds, it's very important to weigh and consider all sides. We have a very active board tasked with exploring and meeting the needs of broker-dealers, advisors, and sponsors. I'm confident my leadership will include both collaboration and action. FSI is at a critical juncture—the opportunity to have influence is enormous. What I hope to accomplish in just one short year is to set a very clear direction on where FSI is headed in the next five years. I'll also be very happy to increase awareness of FSI. It still surprises me when I speak to groups of advisors and see a lack of awareness of what FSI is doing *every day* to represent their interests and the interests of their clients. Driving awareness is vitally important to creating the influence we want.

Mentors and mentoring: Getting to know Bill Dwyer

For 18 years, Bill Dwyer has been intensively involved with Big Brothers Big Sisters of Massachusetts Bay, including overseeing a major fundraising dinner, the Big Brother Big Sister of the Year Awards Dinner, that in 2010 raised more than \$860,000 (and another \$300,000 for the chapter in San Diego).



“There’s no question in my mind that mentoring is very powerful for these kids—they begin to see all they can achieve in the future,” says Dwyer. “Because I’ve been involved for so long, it’s now a real privilege to see former little brothers and sisters come back into the organization and be the ‘bigs.’” Here’s more “need to know” on Bill Dwyer:

A favorite book I recommend is...

Team of Rivals: The Political Genius of Abraham Lincoln by Doris Kearns Goodwin. It’s an amazing piece of writing about Lincoln’s leadership style, primarily his ability to pull together a fragmented but dynamic group of people into a common vision for a larger good.

My mentor was...

My father. He was undoubtedly the most influential person in my life. He was completely values-driven in his approach to life and business. I grew up in Galesburg, Illinois, a small, heart-of-America farm town. I think he embodied that spirit.

You might be surprised to know that I...

Sang “America the Beautiful” at the opening of the LPL conference this year. I have a pretty good singing voice, although I usually reserve it for the shower.

If I weren’t doing this...

I’d be a financial advisor. That’s how I started. I love to see people achieving their life and financial goals.

Dwyer



WHEN THE FOG LIFTS



Four thousand two hundred registered investment advisers currently regulated by the SEC will switch to state oversight by July 2011. Are the states ready?

Remember NSMIA? The 1996 National Securities Market Improvement Act mandated that registered investment advisers with less than \$25 million under management be regulated by the states, while the SEC continued to regulate advisers managing more than \$25 million. A goal was to improve the SEC's examination rate of advisers; at the time, the examination rate was about 10 percent of RIAs annually. Today, it's only 9 percent, while the states typically examine about 30 percent. According to Denise Voigt Crawford, immediate past-president of the North American Securities Administrators Association (NASAA), more than 3,000 RIAs over which the SEC has jurisdiction have never been examined.*

That may change after July 21, 2011, when an estimated 4,200 RIAs now regulated by the SEC—those with up to \$100 million under management—switch to oversight by state regulators, a part of the recently-enacted Dodd-Frank Wall

Street Reform and Consumer Protection Act. Advisers who have never been examined might expect an early knock on the door. But according to Dave Massey, 2010-2011 president of NASAA, many state regulators may follow the North Carolina model, one designed to “branch away from enforcement” and, instead, focus on developing a support and guidance relationship. Recognizing that the advisers North Carolina regulates are constituents to be served, and that the state will gain about 100 new state-registered advisers, Massey's staff began a series of presentations around the state focused on how to go through the regulatory switch process, the new ADV Part 2 and, most importantly for some advisers, what going through an exam is like.

“We want them to know we don't exist to hinder their business,” says Massey. “And we want to make the switch as easy as possible for them.”

NASAA has had a “switch team” in place for months, designed to make the new

state registration process familiar and friendly. But there is concern among the broad RIA population about whether some budget-pinched states have the resources to take on all the new advisers that will come under their jurisdiction. RIAs are concentrated in a handful of states and several states with high numbers of RIAs—California, Florida, Texas, and New York—have more serious fiscal shortfalls in their budgets. (California currently has a budget deficit of about \$20 billion.) Texas, for example, will see its number of RIA registrations increase by 100 percent.* After the switch, the SEC will be left with about 7,000 RIAs to oversee.

Massey expects states will be ready. “NASAA developed a memorandum of understanding [MOU] among all states that calls for a commitment to cooperation and creativity among states, by sharing resources and developing ways to address the challenges of combined jurisdictions,” says Massey. “We can also provide people to train staff in states that need help. The MOU is not written to provide specific solutions—a ‘bright line’ results in loss of flexibility.” NASAA has already distributed a risk assessment tool as part of the exam module for states—“a more intelligent way to create a profile of firms that could pose problems of non-compliance,” according to Massey. “All of these actions came from a commitment to review and re-visit the way we've ‘always done things.’ It's a good shift. I believe after the smoke clears, we'll have a regulatory framework that has the potential for much better oversight of firms that really fit the traditional adviser or planner model. Keep in mind that the SEC has had to focus on the largest firms, including hedge funds, which often bear little resemblance to the local adviser working with retail clients.”

FSI has been actively engaged in discussions with NASAA, and individual state regulators, during much of 2010. “We initially had concerns about state securities regulators’ ability to supervise and examine RIAs with assets of up to \$100 million, but we certainly recognize the important role the states will play in this process after Dodd-Frank,” says Matthew Schwartz, government affairs counsel for FSI. “We share a common goal of investor protection.” Dale Brown, FSI president and CEO, and Schwartz met with Massey in July, and with state regulators in Florida, Illinois, New Jersey, Pennsylvania, and Texas. “The states we’ve visited so far were chosen based on the concentration of FSI members and the involvement of these state regulators in NASAA policy and

governance,” says Schwartz. “It’s very important to our members that we strengthen our relationships with the states and enhance our ability to be effective on important state advocacy issues.”

The standard of care, or fiduciary, issue has also been a high priority for NASAA, which has made it clear it supports a fiduciary duty for all financial professionals offering advice. But, says Massey, while his understanding is that Dodd-Frank *intends* to result in a standard at least as robust as what is in the 1940 Act, “I believe the end result will include some principles-based requirements and some rules-based requirements, and that will be good, although we do understand that the broker-dealer industry would prefer certainty over uncertainty.”

As far as certainty, there’s an inflexible deadline: Advisers with less than \$100 million under management must register with the states in which they do business by July 21, 2011. They also must concurrently prepare the new ADV Part 2, which requires a narrative discussion of fees and other disclosures, instead of the check-the-box process of the past. The “switch” happens in July 2011 and the new ADV Part 2 must be filed by March 31, 2011, but the reality, says Massey, is that the rulemaking details and the implementation will go on for years. “It’s an opportunity for all of us to spend time building better working relationships for the benefit of the investing public.”

**As reported in Financial Advisor magazine, October 2010*

“A sporting chance”

When Denise Voigt Crawford prepared to hand over the reins of the NASAA presidency to David Massey, director of the North Carolina Securities Division, for his one-year term, she said in an interview that it was Massey’s job to “implement the [Dodd-Frank] law and make sure the intent of the law is followed through in the regulations.”



If Southern charm and self-deprecating humor will help, Massey should be up to the task. But the veteran state regulator has plenty of hot buttons when it comes to investors and “so-called” advisors.

In fact, don’t get him started on the presumption that the wealthier the investor, the smarter they are, and the less government needs to step in. “Our job to protect investors includes those who don’t have the knowledge, training, time, or resources to take care of their own interests,” says Massey. “That includes most of us! It challenges your imagination to think that even highly educated accredited investors could really understand some of the investment products put in front of them. But mom and pop investors—they get the first priority from state regulators. It may not be your mom and pop, but it’s *somebody’s* mom and pop.

And the ‘free lunch senior seminar’? Unfortunately, there’s still a lot of misleading advertising aimed at seniors and a general lack of transparency on costs, illiquidity, and lack of diversification. My philosophy on advisors is based on the presumption that most are honest, ethical, and serving their clients’ best interests. And, they are presumed by the public to help people have a sporting chance to stay up with our very complex financial world. But for those advisors that aren’t honest and ethical, we’ll come after you. There’s a social cost to imperiling individuals’ financial security. Sooner or later, it will come back as both a duty and a challenge for the government to take care of them. We must prevent that.”

► *Read more about NASAA and its IA Switch Resource Center at nasaa.org and FSI’s website, financialservices.org.*

OneVoice 2011: Choose golf and choose to do good

Foundation for Financial Planning targeting diverse demographic needs in 2010



When Jim Peniston characterizes 2010 as the Foundation for Financial Planning's most intense year in its history, his emphatic tone underscores what he sees as the urgency of situations. "In 2009, the Foundation distributed grants positioning 1,700 financial planners to offer 30,000 hours of pro bono services to individuals and families in underserved communities," says Peniston, executive director. "We expect that the number of people we'll serve in 2010 will dwarf 2009 figures as secondary effects of the recent recession reverberate through the economy."

The Foundation's strategy this year has played out as a two-pronged approach. In response to a rising tide of families finding themselves in immediate financial dire straits, a suite of outreach programs has premiered to a tremendous reception. Partnerships with nearly 30 city mayors facilitated a nationwide "Financial Planning Days" tour. Event attendees benefited from access to broad menus of complimentary services offered by advisors, credit counselors, and other financial professionals. While addressing specific financial situations in one-on-one settings, volunteer advisors have also introduced clients to the myriad support resources available in the marketplace.

The Foundation's longer-term focus centers on the delivery of educational programs designed to arm both adults and adolescents with life skills needed to manage their own finances capably. In concert with its grant recipients, the Foundation is importing financial curriculums into numerous high school classrooms. Driven by the Foundation's funding, thousands of teen-aged students are being exposed to basic financial principles, including budgeting, investing, and the responsible use of credit. "Many of our newer grants are targeting younger populations," Peniston says. "It's critical that we teach our children early so they develop good financial life skills, which could help them avoid the financial hardships that so many people currently in crisis are experiencing."

A similar youth-focused initiative, being introduced in 2011, will showcase

a Foundation partnership with The Boys & Girls Clubs of America. Peniston describes the new program as powerful because underserved children, along with their families, will have joint access to its financial support services. He anticipates this outreach project will touch many single-parent households struggling to prosper in the current economic environment.

Rounding out the Foundation's 2010 efforts is its Wounded Warriors program. Peniston says multiple factors are converging on military personnel as a "perfect storm" of financial obstacles—in particular, an influx of military reservists unexpectedly deployed overseas and returning to civilian life under precarious financial conditions. "We're seeing so many reserve personnel in the situation of having their civilian careers interrupted by their military obligations, only to come home to face unemployment, salary reductions, and losses of benefits," says Peniston. He also points to statistics indicating that residential communities surrounding military bases are experiencing higher foreclosure rates than overall national averages.

The Foundation is partnering with FSI to co-sponsor the OneVoice 2011 Golf Tournament, which tees off on Monday, January 31. Proceeds from the outing will support the Foundation's various grant-funding initiatives. FSI sponsors and broker-dealer members have been generous supporters of the Foundation. Please visit foundation-finplan.org to learn how you can help. Fidelity Investments is matching every new individual pledge, dollar-for-dollar, up to \$1 million, through December 31, 2010. Make a difference—now.



Members engaged on the independent contractor issue

On September 15, Congress introduced the Fair Playing Field Act of 2010, more commonly known as the independent contractor legislation. If passed in its current form, the bill would revise current tax law governing employment status determinations and potentially result in the reclassification of independent financial advisors as broker-dealer employees.

In response, FSI is engaging members to participate in a concerted campaign aimed at preserving independent contractor status. During the recent congressional recess, 10 FSI members, including the three below, made personal visits with members of Congress to ask for their support in making sure independent financial advisors are not the unintended target of the legislation. FSI is grateful to them and all of our members actively committed to preserving the independent contractor relationship between financial advisors and their broker-dealers.



Rob Johnson,
ChFC, CLU
Northwest
Retirement
Security Group
Marysville,
Washington

Rob Johnson found himself in somewhat familiar territory when he sat down with a staff member of Senator Maria Cantwell's (D-WA) office. To complement his 30-year financial services career, Johnson spent four years (1991-95) climbing the steps of the state's capitol building as a two-term state representative.

The FSI member and Washington state native characterizes his October meeting with Senator Cantwell's office as both productive and encouraging. "The senator's representative seemed fairly well-versed on the independent contractor

issue, and assured me that she's extremely concerned about the points raised, and the unintended consequences that could impact many small businesses," he says. Johnson adds that, according to Senator Cantwell's office, authors of the bill are already considering revisions of certain language to address concerns raised by countless small business owners and professional advisors.



Tom Hine,
CFP®, CFS
Capital Wealth
Management, LLC
Glastonbury,
Connecticut

Nothing captures the essence of a message as powerfully as undeniable facts and figures. Such was the case during Tom Hine's meeting with Connecticut Representative John Larson's (D-CT, 1st) chief of staff in September.

While outlining the adverse repercussions of potentially losing his independent contractor status as a professional advisor, Hine noted several industry statistics that pointedly framed his discussion with Larson's office. "I explained how the proposed legislation could impact more than 188,000 independent advisors across the country who manage several trillion dollars in assets for their clients," he says. "Those figures seemed to really get his attention about the scope of what we're talking about."

During the meeting in Hartford, Hine made it his priority to stress how the loss of independent contractor status would be the most detrimental to middle-class investors. "I really wanted Congressman Larson to understand that our 'Main Street America' clients are the ones that may suffer the most if Congress restricts our independence and objectivity." The veteran advisor and published author also notes that he considers his advocacy efforts an important discussion point with his *clients*.

"I feel empowered by being involved, and I tell my clients that the real reason I'm out there is to be their voice," Hine says.



Christine Trapp,
CFP®
Trapp Financial,
LLC
Itasca, Illinois

Christine Trapp has been an FSI member since February 2005. This fall, however, marked her first occasion to speak face-to-face with Illinois Representative Peter Roskam (R-IL, 6th).

Trapp considers her primary role in the conversation as clarifying the scope of accountability held by financial advisors. "I've been doing this a long time, and one thing I can say about our profession

(continued on back cover)



MEMBER ADVOCACY (continued from page 7)

is that many people don't totally understand what we do," Trapp says. "That includes our political leaders. They have so many things on their agenda that they understandably tend to know a little bit about a lot of different things."

In step with her advocacy peers, Trapp reinforced to Rep. Roskum the plight she's witnessing among her largest client segment. "I emphasized that the general public is having a hard time financially right now and needs independent financial advisors to help them now more than ever," she says. "We're

the general practitioners of the financial world. Our clients could be hurt if our independent contractor status is changed."

► For more information on the independent contractor issue, please visit the Issues Page at financialservices.org

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

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