

# FSI Voice

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FOR MEMBERS OF THE FINANCIAL SERVICES INSTITUTE

VOICE OF INDEPENDENT BROKER-DEALERS AND INDEPENDENT FINANCIAL ADVISORS

FINANCIAL SERVICES INSTITUTE






## A year of engagement

*What is the power of grassroots advocacy? Here's what FSI President and CEO Dale Brown would like you to know about it—and what your role can be.*

**Q** *We can't look ahead without looking back on 2010 and the momentum that carries forward into 2011. What are some highlights?*

**A** It was a very busy year for FSI staff getting out and about, so to speak, and not just to important meetings in Washington. Kevin Whitehead, director of corporate relations, represented FSI at 22 conferences of our broker-dealer members; I spoke at 19 industry conferences myself; and, between them, Dave Bellaire and Matt Schwartz, of our advocacy team, made 86 trips, including meetings with six state regulators and many visits to Washington. These trips are important to keep telling FSI's story, but also for keeping us plugged in with what's important to our members, both broker-dealers and financial advisors.

Without a doubt, though, a huge highlight was our victory on the independent contractor issue. This piece of legislation—officially, the Fair Playing Field Act of 2010—was actually proposed to be attached to another bill, one that requested funding for 9/11 first responders, in the December lame duck session of Congress. If passed, it would have revised the current tax law governing employment status determinations and would have put our members' independent advisor business model at risk. Our success on this issue was made possible by FSI members who responded to our calls to action with more than 14,000 e-mails and letters to their legislators. In addition, FSI members participated in targeted grassroots meetings with influential members of the House Ways and Means and Senate Finance committees.

**News Briefs:** **voice** FSI welcomed 580 attendees to **OneVoice 2011** in late January. The annual conference for broker-dealers featured keynote speakers Rick Ketchum of FINRA, Alicia Munnell of Boston College's Center for Retirement Research, and author and consultant Peter Sheahan. Session materials are available for download on our website. Read the archive of tweets from the conference; follow [twitter.com/FSIOneVoice](http://twitter.com/FSIOneVoice).  The **2010 Year in Review** is now available on [financialservices.org](http://financialservices.org) in the Newsroom. Read all the highlights on an extremely effective year of advocacy.  Mark your calendar for the **2011 Advocacy Summit**—October 4-5 in Washington, D.C. This is your chance to take part in FSI's "year of engagement." Details will be announced soon.  FSI welcomed four **new team members** in late 2010 and early 2011. Please see page 8 for more information on the newest team members.

(continued on page 2)

Grassroots



We developed a short list of about 15 members of Congress and then identified FSI members who were willing to make personal appeals on the issue. All of that was absolutely critical to our success. The new Republican majority in the House makes it very unlikely that similar legislation will move forward in the 112th Congress.

**Q** *You're describing 2011 as a "year of engagement" by FSI members and have announced a new campaign for grassroots involvement. Speaking broadly, how do you define "grass roots"?*

**A** Let's take a quick look at where the term originates. In 1903, when Theodore Roosevelt and his vice presidential candidate were running for office, a political organizer said that "Roosevelt and Torrance clubs will be organized in every locality—we will begin at the grass roots." A simple definition is that a grassroots movement is driven by the "politics" of a community. If you look at the FSI community, our context is that we are an important, influential group of professionals—business owners, entrepreneurs, broker-dealer firms and advisors, all across the country—with a very important group of constituents—average, middle-class Americans working to secure their financial future with the help of these



Dale Brown, FSI president and CEO, kicks off OneVoice 2011 and the "Be a Catalyst" campaign.

advisors. That is a very compelling story about this community's "politics." Our goal is to help members get engaged in the legislative and regulatory process in a way that can maximize their impact, even if it's just an advisor adding his or her singular voice to the collective voice—certainly 14,000 e-mails and letters on a single issue speak loudly on behalf of the community. In addition, we want to tap into existing relationships that advisors or broker-dealer executives already have with members of Congress. Picking up the phone and calling a member of Congress and getting that call returned to discuss an issue is a whole other level of engagement. FSI is the catalyst to help those things happen.

**Q** *Speaking of being a catalyst, tell us more about the new FSI Catalyst campaign.*

**A** This is the official name for our year of engagement by members; it has three critical pieces to it: **Discover it, fund it, live it.** First, we know that our members are extremely busy professionals, and they aren't sitting around all day thinking about what Congress or the SEC is doing that may affect their business or an action that FINRA is taking that may have an unintended, negative consequence for their business. But FSI is doing that. So, we must make sure we're helping our members discover what it is that's taking place so they can understand the relevance to their business. "It" is knowledge, education and awareness—particularly, why this matters to you. "Fund it" is fundamental to the way our system works. We all know that the "language" that gets results in Washington is grassroots power and money. Through FSI PAC, we can have the resources to support candidates who share our views on the issues. We also have to have resources to be able to advance our issues—to hire lawyers to do the proper legal work to make sure our arguments are sound, engage public relations professionals to keep getting the messages out or hire research firms to make sure we have compelling facts to support our case. That's where the new FSI War Chest comes in. To oversimplify, FSI PAC is about people, while the FSI War Chest is about issues. The final piece of "fund it" is members joining and renewing to keep a strong, critical mass of membership and revenue to fund our efforts.

**Q** *And what is the message on "live it"?*

**A** It's step up and be involved. At some point, every FSI member has to decide where on the spectrum of potential action he or she is going to be able to get engaged. For our broker-dealer members, it means deploying your firm's influence in support

## FSI ON TWITTER

### Looking back, looking ahead



"Relocation to Washington, D.C., took a big step forward this week: family moved into temp housing, office space secured, ready to go for FSI!"

First Twitter post, from FSI Dale Brown, March 8, 2010

"Very effective meetings this week with Counsels to #SEC Commissioners Walter and Casey about #fiduciary duty and #FINRA as SRO for #RIAs"

Twitter post from FSI Dave Bellaire, February 16, 2011



“Yes, I’m a catalyst!”

Start something—here.



- Help FSI recruit new members.
- Meet with legislators and regulators in Washington.
- Participate in a meeting with your member of Congress in your hometown.
- Go to a fundraiser.
- Write letters on issues.
- Attend the 2011 Advocacy Summit in Washington.
- Learn about FSI PAC.
- Contribute to the FSI War Chest.

► For more on creating your own year of engagement, e-mail us at [membership@financialservices.org](mailto:membership@financialservices.org).

Engage

of our efforts, including helping us educate and mobilize your firm’s financial advisors for FSI membership. We firmly believe that every member can be involved in some way. Decide what you’re willing to do—and we recognize this is always a big decision in a world with many competing priorities—and how much of your time and treasure you can invest. If a member just wants to dip a toe in the water, commit to writing a letter through our Advocacy Action Center tools. If a member is already politically astute and active, then bring those connections and that knowledge and experience to the benefit of FSI and our industry. If a member wants to help shepherd or motivate others—being a champion within a broker-dealer, for example—we want to hear from that member.

Remember that since we’re an advocacy organization, much of what we do is issues-driven—sometimes we have to wait and see what bubbles up as a hot issue. But being a catalyst also means helping lay a strong foundation to be in a position for action when the next hot issue develops. That includes simple steps such as giving to FSI PAC and the War Chest. Or, if you like your elected representatives, support them financially, go to a fundraiser, work for their

re-election. If you don’t like their position on our issues, work to replace them. I keep going back to those 14,000 letters and e-mails on the independent contractor issue. Our members worked within the process and the system—and we got results. All of these efforts this year, and in subsequent years, will help us realize one of the main goals of our new five-year strategy: *FSI will influence every important legislative and regulatory issue impacting our members.*

Q *Final thoughts on the year of engagement?*

A We’re now facing the years-long implementation phase of the Dodd-Frank Act. As an industry, we can step up and be engaged in that process and seek to influence it in a positive way so that the result is true investor protection, choice and affordability. Or, we can just sit by and let it happen to us, which means it also happens to independent financial advisors’ clients. Helping Americans retire with dignity, send kids to college, support a small business prospering—these are bread-and-butter Main Street goals. It’s not pie in the sky to say that our members’ hard work reaps those kinds of benefits.



## FSI advocacy priorities for 2011

FSI works to create a healthier regulatory environment for independent broker-dealers and their affiliated independent financial advisors through aggressive and effective advocacy, education and public awareness. For 2011, the priorities that will guide our advocacy efforts are:

- Impacting implementation of the Dodd-Frank Act’s financial regulatory restructuring, including a fiduciary duty of care
  - Preserving the ability of independent broker-dealers to classify their registered representatives as independent contractors
  - Preserving mutual fund fees that promote affordable access to professional advice and support for all investors
  - Supporting legislative and regulatory initiatives that impact retirement savings and access to retirement planning advice
  - Advocating changes that benefit financial advisors as small businesses
  - Building productive relationships with state regulators
- You can take action. Read more in the Advocacy Action Center of [fsiadvocacy.org](http://fsiadvocacy.org) about our advocacy priorities and how you can be involved.

Priorities



## FINRA as SRO: The best choice for a stronger regulatory structure

by Bill Dwyer and Joseph Russo

Last July, President Obama signed into law the most significant overhaul of the financial services regulatory system in more than 70 years. As part of the Dodd-Frank Act, as it is commonly known, the SEC was required to review and analyze the need for enhanced examination and enforcement resources for investment advisers. Specifically, the SEC's mandate included examining whether a self-regulatory organization (SRO)—either new or existing—would improve the regulatory gap between broker-dealers and investment advisers.

There is little question that a glaring regulatory gap exists. While broker-dealers have regulatory exams on a regular schedule, investment advisers operate their businesses without the expectation of being subject to routine regulatory scrutiny, primarily due to an underfunded SEC and state regulatory structure. The SEC itself planned to examine fewer than 10 percent of the RIA firms subject to its supervision in fiscal years 2009 and 2010. In addition, in 2010, the SEC changed its existing risk-based methodology for selecting RIAs for examination and announced that it had indefinitely suspended its goal of inspecting 11,000 RIAs on a regular schedule. This current unbalanced playing field has consequences for consumers, chief among them the risk that an advisor whom consumers may consider for a relationship has engaged in “regulator shopping” to seek the least regulated area in which to operate, and who may go years without being examined.

FSI has long held the position that, as an industry, we must advance the cause for enhanced investor protection and

improved transparency. We also believe that the SRO model provides the answer to investor protection goals. And, as a board representing your interests as members of FSI and as members of the larger independent community, we believe that FINRA is the best choice as the SRO for investment advisers. FINRA has knowledge of the overlapping nature of financial services offered by broker-dealers and investment advisers, experience performing regulatory examinations of financial service providers and experience operating an SRO that has a structure designed to ensure that its governing body, committees and staff act in the public's best interest.

During the board's discussions leading up to our December 2010 endorsement of FINRA, we reached a consensus that both broker-dealers and independent financial advisors would agree that we should pursue greater clarity among consumers on the foundation of the relationship between client and advisor. We also identified the goal of cost-effective and efficient regulatory oversight that doesn't unduly increase costs to consumers. The board also concluded that it could take years for another organization currently not an SRO to reach the point of the qualifications and experience FINRA currently has. And, perhaps most important, our endorsement of FINRA capitalizes on our existing and very productive relationship with FINRA, no small matter considering the coming

*FSI has long held the position that, as an industry, we must advance the cause for enhanced investor protection and improved transparency.*

environment of intense rulemaking as we work through the implementation of the Dodd-Frank Act. Our advocacy strategy has always included constructive but aggressive engagement with regulators—and our advocacy successes of the past seven years reflect that.

As an independent financial advisor committed to advocacy and stewardship of your industry, you have the right to expect that the organization that deliberates on your behalf exercises rigor and care when making important decisions. Your board is a 16-member body of volunteers that fully embraces that philosophy. We also embrace transparency of our process and highly value your feedback. Our endorsement of both the single SRO model and of FINRA as the best choice for that SRO will, we believe, result in a further strengthening of our mission: to create a healthier regulatory environment for independent broker-dealers and their affiliated independent financial advisors and to place investor protection at the forefront of realizing that mission.

▶ *Bill Dwyer is president, national sales and marketing, for LPL Financial and the 2011 chair of the FSI board. Joe Russo is the chairman and CEO of Advantage Financial Group, a 54-branch network of advisors managing more than \$3.5 billion of client assets, and the 2011 vice chair of the FSI board. To read FSI's 11-page letter to the SEC on enhancing investment adviser examinations, please visit the Issues section in the Advocacy Action Center. We welcome your feedback: [membership@financialservices.org](mailto:membership@financialservices.org).*

# Financial Advisor Council expanded, new board members take their seats

*FSI has broadened the scope of the Financial Advisor Council through a new charter that extends its influence in shaping both legislative issues and membership support.*



New board members are Clive Slovin, Donna Guinta, Jay Bley, Jim Herrington and Terry Garrard

In January, 40 broker-dealer members who have supported our membership acquisition strategy through year-end licensing were invited to nominate one affiliated financial advisor to serve on the council. These advisor council members will play an integral role in strategically addressing various initiatives including:

- Identifying emerging issues with potential repercussions on independent advisors
- Providing feedback to FSI staff and the board of directors on how specific legislative and regulatory actions impact the independent advisor community
- Recommending ways to foster more effective working relationships between advisors and policymakers
- Reinforcing FSI's positioning to showcase independent financial advisors to clients as the "advisor of choice"
- Advising on programs that enhance the value of FSI advisor membership

The council's new charter facilitates hands-on participation among its members, which will include representing FSI constituents

in Washington, D.C., through face-to-face meetings with congressional and regulatory leaders. FSI board of directors vice chair Joseph R. Russo has been tapped as chair of the council. "Strengthening our Financial Advisor Council with motivated and engaged independent professionals will bolster FSI's ability to anticipate and address key advocacy issues going forward," Russo says.

### **New members join board of directors**

FSI welcomes **James (Jim) Herrington**, CLU, CFP®, and **Clive Slovin** as newly elected members to the FSI board of directors. Herrington is founder and chair of THE Financial Services NETWORK (THE NETWORK) of San Mateo, Calif. THE NETWORK has 175 full-time independent contractor financial advisors in 45 communities in 16 states. Herrington also is CEO of Strategic Wealth Advisor Group, an SEC-registered investment adviser. Slovin has served as president and CEO of Atlanta-based The Strategic Financial Alliance, Inc. (SFA) since 2003. He previously was president of Investors Financial Group (IFG) and

chief financial officer of Financial Service Corporation (FSC). Slovin, a native of South Africa, began his career as a CPA with the international accounting firm of Deloitte.

In addition to Herrington and Slovin, three new council chairs join the board during their one-year tenure chairing a council.

**Jay Bley, CRCP, chair, Compliance Council**, has served as The O.N. Equity Sales Company's (ONESCO) chief compliance officer since 2004. He also performs the same role for ONESCO's investment adviser affiliate and Ohio National Equities, Inc., Ohio National's institutional broker-dealer. Prior to joining Ohio National in 1999, Bley served in a retail brokerage operations role with Fidelity Investments. **Terry Garrard, chair, Marketing, Growth and Development Council**, is assistant vice president, marketing for ONESCO, responsible for marketing and promotion of various products and services offered through ONESCO and Ohio National. His earlier career includes a fee-based planning role with Prudential Preferred and five years in advertising as an account executive. He holds FINRA Series 7, 24, 53 and 66 licenses. **Donna Guinta, FLMI, ACS, AIAA, chair, Operations and Technology Council**, is vice president of operations at Cadaret, Grant & Company, Inc., overseeing the operational and systems functions used in processing transactions and information for several business functions. Guinta previously was responsible for managing underwriting and policy issues at Mutual of New York. She holds FINRA Series 6, 63 and 26 securities licenses, as well as life, accident and health insurance licenses.

## OneVoice 2011: Perspective

*Standing room-only sessions, 580 attendees, a charity golf tournament, another “best ever” OneVoice conference (at least until next year). From the opening general session featuring a town hall dialogue with FINRA CEO Richard “Rick” Ketchum through the 19 educational sessions to the closing general session with the dynamic Peter Sheahan, OneVoice 2011 was a content-rich two days that challenged—and changed—perspectives. It centered not on the answers we know, but the questions we ask. And not by the perceptions we hold, but by the new angles we explore.*

“For better or worse, we are going to make history.”



Rick Ketchum, CEO of FINRA, and Dale Brown, president and CEO of FSI



During the standing room-only opening general session of OneVoice 2011, FINRA CEO Rick Ketchum engaged in a thoughtful and wide-ranging dialogue with Dale Brown, president and CEO of FSI. Ketchum projected that a fiduciary study for registered representatives would happen no sooner than the latter half of 2012, calling even that timeline “aggressive” because of the need to register one or more self-regulatory organizations (SROs). When Brown asked Ketchum about FINRA’s preparedness to potentially serve as SRO for investment advisers—a concept FSI endorsed in late December—Ketchum said that FINRA “brings obvious advantages,” but acknowledged

that it would have to strengthen its staff at the senior levels with professionals experienced in investment adviser responsibilities. He noted that FINRA wouldn’t expect the same “rules-based approach” to apply across the board: “I don’t see FINRA as being involved heavily in rulemaking efforts,” said Ketchum. “We’d be involved in enforcing the ’40 Act and would look to the SEC for guidance.” The SEC Standard of Care Study, released in late January, recommended three options for improving oversight of RIAs, including user fees to fund more audits, one or more SROs or FINRA oversight of hybrid advisors. *(Please see the sidebar on page 7.)* Ketchum noted that the SEC

“acknowledged very clearly that with their present funding, they cannot regulate investment advisers.”

Ketchum also told OneVoice attendees that he holds the view that FINRA members do start with the best interests of their clients. He also noted how important the next few years will be as details of the new regulatory regime get their final shaping and are implemented: “We have a long and complex road ahead of us. But for better or worse, we are going to make history.”

Standing room-only, taking a stand for the issues, standing on chairs—OneVoice was connections, ideas and people in motion.



The OneVoice 2011 golf tournament benefitted the outreach programs of the Foundation for Financial Planning, headed by Jim Peniston, executive director.



Best-selling author and entrepreneur Peter Sheahan, CEO of Change Labs, energized attendees at the closing general session on applying innovative thinking to challenging times.



Thinking about new perspective at a OneVoice session.



Thank you to our 50 OneVoice 2011 exhibitors.

## The SEC and the fiduciary standard: Recognizing the strength of broker-dealers' regulatory system

As Rick Ketchum noted in his OneVoice dialogue with Dale Brown, on January 31, the SEC released its long-awaited Standard of Care Study, mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, on whether the fiduciary standard should be applied to broker-dealers as well as registered investment advisers. From public statements made in 2010, it was clear that SEC Chairman Mary Schapiro favored a single fiduciary standard. During the required comment period, FSI submitted a comment letter outlining our position that the SEC should improve investor protection by adopting a carefully crafted uniform fiduciary standard of care that is supported by frequent examinations conducted by a self-regulatory organization for investment advisers. (The SEC received more than 3,500 letters while working on the Study.) In short, the Study did come out on the side of writing regulations that would impose a fiduciary duty that is “no less stringent” than the one that currently applies to investment advisers. Although critical details are still being worked out—for example, the SEC’s “interpretive guidance” that would define components of a universal fiduciary duty—FSI’s recommendations were well-represented in the Study.

“We were pleased with many of the recommendations that the SEC provided in the Study,” says Dale Brown, president and CEO of FSI. “Given the Study’s proposals, it clearly recognizes the strengths of the broker-dealer regulatory system.”

FSI supports the Study’s efforts to provide a roadmap to improved investor protection through a uniform standard of care and

harmonized regulatory requirements. The Study also emphasizes the need for regulators to provide broker-dealers and investment advisers with clear guidance on how to comply with the new requirements. “We urged the SEC to provide this guidance so that firms could control costs and investors would retain access to services,” says Brown. “We were happy to see that the SEC addressed this within the Study and recognized the need to provide broker-dealers with specific guidance concerning their obligations under the uniform fiduciary standard of care.”

The SEC also responded to FSI’s request for clarification of what it means to provide personalized investment advice about securities. “Our member firms welcome the clarity the SEC recommended,” says Brown. “Further, FSI specifically recommended in our comment letter to the SEC that they consider requiring investment adviser representatives to be subject to federal continuing education and licensing requirements. We are pleased to see the SEC recommend this CE requirement.” The Study recommended that the Commission should consider whether to modify the Advisers Act books and records requirements, including considering a general requirement to retain all communications and agreements, consistent with the standard applicable to broker-dealers. “Although this recommendation is more modest than we recommended in our comment letter, we believe it’s a step in the right direction,” says Brown.

► For more on the SEC Standard of Care Study, please visit the Advocacy Action Center at [fsiadvocacy.org](http://fsiadvocacy.org).

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## NEW STAFF EXPANDS ADVOCACY AND MEMBER RESOURCES

FSI is pleased to announce four new staff members to enhance member services, communications and advocacy. **Keith Kelly** is FSI's new executive vice president and chief operating officer. An accomplished financial services executive, Kelly previously was president of Mutual of Omaha Investor Services and vice president and chief operations officer for Nationwide Financial Network. Kelly is based in Atlanta. **Ryan Caruso** joined as Washington, D.C.-based government affairs manager. Most recently with The Financial

Services Roundtable, Caruso has more than 10 years of experience in governmental affairs. **Jeannine Rhoden** joined as marketing communications manager, bringing marketing expertise from Chick-fil-A and the PGA Tour. **Nicole Whatley** is the new manager of office services,



Keith Kelly



Ryan Caruso



Jeannine Rhoden



Nicole Whatley

working with accounting, operations and database management. Previously, she was database and revenue manager for GAMA International.

# FSI

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