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FSI'S NEW FINANCIAL ADVISOR GROUP HEALTH PLAN: WHAT YOU NEED TO KNOW

As part of our ongoing mission to help independent firms and advisors serve their clients by empowering their practices to continue to thrive, FSI is very pleased to announce the launch of our new Financial Advisor Group Health Plan.

To further explain the benefits available to our members through this unique and innovative health insurance offering, FSIVoice sat down with FSI's Chris Paulitz, who has spearheaded the development of this vital initiative.

With COVID-19 currently re-shaping the landscape for American investors, advisors and businesses of all kinds, the Financial Advisor Group Health Plan

is helping FSI do our part to protect advisors, their staff members and their families.

FSIVoice: What is the Financial Advisor Group Health Plan?

Many of our advisor members have been struggling on the Affordable Care Act individual marketplaces for years, with costly premiums that may be bigger than their monthly mortgage payment, and deductibles so high they may never be met. They've been asking us for years to give them a better option, and that's what we've done.

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// We are incredibly proud to represent our nationwide community of independent advisors and firms as they help their clients through this uncertain time. //

DEAR FSI MEMBERS,

During this time of market turmoil, social distancing and anxiety, it is more important than ever that we continue to strengthen the bonds of our community by staying in touch with each other virtually, even as face-to-face interactions have been curtailed because

of the coronavirus pandemic. I am very grateful for your continued commitment to staying connected with your peers and with us during this challenging time.

Even more important than the links among FSI members are the connections between independent financial advisors and your clients. As the markets continue to experience severe and persistent volatility, advisors stand heroically on the front lines, helping Main Street American investors work through the financial anxiety that has begun to compound concerns over their families' health and safety.

In the weeks and months ahead, advisors' central role in the lives of your clients will become even more critical, as questions over how to pay for healthcare, how to cope with temporary business closures, whether to relocate loved ones from senior care facilities and many other unforeseen challenges disrupt investors' carefully-laid plans.

We are incredibly proud to represent our nationwide community of independent advisors and firms as they help their clients through this uncertain time. We are committed to ensuring that legislators and regulators at both the national and state level understand the invaluable support our profession is providing to Main Street American workers and retirees in the midst of this upheaval. As these authorities develop measures to support and repair the economy during this unprecedented period, we will continue to watch over the interests of the independent financial services community.

As with many of your firms, we have asked our staff to work remotely to protect their health and help flatten the curve until the pandemic can be brought under control. While we are working in different settings, I want to assure you that our focus on fighting for the needs of our members and your clients will not change.

We remain fully engaged with state and federal policy makers to advance our 2020 advocacy priorities, including ensuring the success of Reg BI while opposing a confusing patchwork of fractured, state-level fiduciary standards; protecting advisors from re-emerging threats to their independent contractor status; maintaining our working dialogue with FINRA to influence the direction of potential future cybersecurity regulations; defending senior investors from the threat of financial exploitation, and many more.

Even though 'social distancing' is the watchword of the day, my team and I are always available to listen to the needs of FSI members. As new challenges present themselves, please do not hesitate to reach out to us to let us know what is happening in your communities and what we can do to help.

Again, we are honored and proud to represent a community of financial professionals and firms that provides such vital guidance—not to mention emotional and personal support—to so many Americans at a time when it is so clearly needed. We will continue to do all we can in this uncertain environment to empower our members to perform these crucial functions—and to help America overcome these challenges as quickly as possible.

Dale E. Brown, CAE
President and CEO
Financial Services Institute

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*Plans in 16 states for groups of 5+ members under one tax ID; plans in 44 states for groups as small as 2; dental and vision plans for groups of 2+ in all 50 states.

The Financial Advisor Group Health Plan is a real game-changer for small practices. They're almost certainly going to be on the individual market, with healthy advisors paying sky-high rates. Advisor offices that have five to 10 workers can probably get on the small group market, but premiums there are still high.

By leveraging the collective bargaining power of the thousands of members in our association, the Financial Advisor Group Health Plan can deliver significant savings compared to what's available on the individual market.

What was FSI's inspiration for developing this new offering?

When we started our CoveredAdvisor program five years ago, we considered offering health benefits, but the ACA was in its infancy, and there were encouraging signs that it would help solve the problem of advisors being priced out of insurance or not being able to get coverage due to preexisting conditions. Because of this, insurance companies were not willing to work with associations on an offering.

Fast forward a few years, and some states have experienced massive annual premium increases, and there are places in the country where there's only one carrier to choose from.

Two years ago, the Trump administration proposed a rule that would expand association health plans, and we supported it through our advocacy. Then 11 states and Washington, D.C. filed a lawsuit against the rule, and now it's tied up in court.

But the genie was already out of the bottle in terms of bringing attention to the potential of association plans. We started working with Humana Inc. and National General Insurance to be our carriers, and finally, after all these years, have brought a true solution to many of our members. It's been a long road, but it has paid off.

What makes this plan an attractive health benefits option for advisors and their staff members?

By bringing together our advisor members to form a group with potentially thousands of covered lives, we're giving them access to the large-group market

for health insurance. There, the bigger a group is, the deeper the discounts it can get from insurance carriers. To garner further savings, our broker, Decisely, does the underwriting on these plans, which takes some pressure off the carriers. It all works seamlessly together to drive down rates for our members.

What are the eligibility requirements for the plan?

Federal law dictates that for group insurance, you must have at least two people in the group. That can be two advisors in an office, or it can be an advisor and a staff member. We also require that advisors be members in good standing with FSI to get coverage—but anyone can get a quote regardless of whether or not they are a member.

Where is the Financial Advisor Group Health Plan available and what type of plans are offered?

We have two plans: In 16 states, we have a Humana plan, and for a group to be eligible for those plans they have to enroll five or more people. In 44 states—including the 16 where the Humana plan is available—we offer a separate plan from National General, which can accommodate as few as two people. The National General plan uses the Cigna and Aetna networks, so our members will have access to a broad array of health providers. With both plans, if members participate in the carriers' wellness plans, they can also gain even greater savings off their premiums.

There are six states—Delaware, Hawaii, Montana, North Carolina, New Hampshire and New York—in addition to Washington, D.C., that by law will not allow us to offer group health insurance. In those areas, we can still help members by bringing them access to the small-group market, where premiums may be more affordable.

For advisors in all 50 states and the District of Columbia, we can also reduce the time they have to spend applying because we would enroll them, and we can drive discounts by bundling vision and dental insurance. Lastly, Decisely offers online business solutions that members can access at a significant discount, or absolutely free, such as HR support and payroll support.



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When and how can members sign up?

Quoting has already begun, and our first effective date is May 1. Advisors can enroll at any time of year. To get a quote, they can visit www.AdvisorHealthPlan.org.



FSI recently rebranded CoveredAdvisor to CoveredAdvisor2.0. What's new beyond the healthcare plan?

Since we established CoveredAdvisor five years ago, we have been the only association plan that has offered group and individual long-term disability, group term life/AD&D, accident and critical illness coverage.

We have now partnered with Prudential to cover up to \$30,000 for monthly group and individual disability and up to \$750,000 in group term life/AD&D insurance for members.

Additionally, advisors can now use term life/AD&D as collateral against loans, and we have a staff plan that bundles short-term disability, long-term disability and term life insurance. In every way, this is a bigger, more robust version of the non-health insurance portion of CoveredAdvisor.

Where can members go for the non-health benefits?

They can visit FSIBenefits.com for more information on enrolling.

KEY ADVOCACY PRIORITIES THAT MATTER TO OUR MEMBERS IN 2020

Representing our members' interests as effectively as possible in the regulatory and legislative arenas requires us to not only be deeply involved in issues that are top-of-mind today—like the SEC's Reg BI—but to anticipate where the next potential challenges for independent advisors and firms may emerge.

With this in mind, we continually work with our Board and members to identify the issues that are most likely to impact advisors' and firms' businesses both today and in the future, in order to develop effective engagement strategies on their behalf.

In 2020, our key advocacy priorities will be:

Issues of Concern to Independent Financial Services Firms & Advisors:

- Tax Treatment of Financial Services and Businesses.** Independent advisors continue to face challenges to their independent contractor status, particularly at the state level. Besides curtailing advisors' autonomy and control over their businesses, state efforts to reclassify advisors would also have profound tax implications that would undermine our industry's core economic model.

With this in mind, we will continue to educate lawmakers on the benefits of the independent contractor model for advisors and their clients, as well as the unintended consequences of efforts to reclassify advisors as employees. We will also provide our members with robust information on best practices to help them respond to worker classification challenges.

In addition, we will continue to oppose recurring proposals in various states to tax financial services and transactions, or to impose professional privilege taxes on advisors.

- Reducing Burdens on Business Entities Operated by Advisors.** The financial advice industry—land the business models advisors use to serve their clients—have evolved. It is time for the SEC to allow payment of securities income directly from firms to business entities operated by advisors, in order to simplify these entities' operations and tax reporting.

We will continue to seek relief on this issue, as well as pushing for other measures to assist small firms, including easing the burden of PCAOB audits and allowing association health plans.

In addition, we will urge the SEC to update its guidance on electronic document delivery and allow clients to enable electronic delivery of their account documents via negative consent.

Issues of Concern to the Financial Services Industry:

- Standard of Care.** We are committed to working with our industry and regulators to ensure that Reg BI successfully establishes an effective standard of care that improves investor protection while supporting access to financial advice and services. We are pursuing this priority through our Reg BI Workshops, as well as by facilitating discussions on best practices as firms prepare for the rule's implementation deadline and other measures.

At the same time, we will continue to vigorously oppose efforts by states to create their own fiduciary standards or disclosure requirements, in order to prevent the development of a confusing patchwork of potentially conflicting regulations. We are prepared to utilize all of the tools in our advocacy toolbox on this front.

“We continually work with our Board and members to identify the issues that are most likely to impact advisors' and firms' businesses both today and in the future.”

Issues of Concern to Clients:

- Retirement Security Solutions Provided by the Private Sector.** We will continue to oppose the establishment of government-operated retirement plans in various states across the country that would require enrollment of private sector workers. As we have stated before, such plans would undermine established private-sector markets for retirement plan services that already diligently serve clients across the country, and would unfairly compete against independent financial advisors and firms.

Our efforts on this issue will include supporting the adoption of Multiple Employer Plans (MEPs) as an alternative to mandatory state-run plans. We also support voluntary state-run retirement plans.

Additionally, we will continue to work to bolster Main Street Americans' ability to save for retirement by advocating for the restoration of deductibility for advisory fees, and by educating lawmakers on retirement issues with an eye toward potential legislation in 2021.

- Prevention of Financial Exploitation of Vulnerable Adults.** Protecting our valued senior citizens from financial abuse remains one of our core issues. In 2020, we will continue to encourage states to establish legislation to protect senior investors, patterned on NASAA's model rule.

To summarize, we have mapped out an ambitious plan to influence the regulatory and legislative environment on behalf of our members and their clients in 2020 and beyond. We look forward to working side-by-side with our Board and our members in the months ahead to ensure continued progress toward these vital priorities, for the benefit of members' businesses and the Main Street American investors they serve.



In our industry, unfortunately, an unintended consequence of these uncoordinated state-by-state efforts to strengthen cybersecurity protections is that they have created significant compliance challenges for advisors and the firms that support them.

As one illustration, all 50 states have laws requiring companies to notify consumers about data breaches, but the definitions of a 'breach' and 'personal information' vary by state. For firms and advisors—most of which work with clients across multiple states—this creates unnecessary complications in developing protocols to follow in the event of a breach.

What we need now is greater coordination to help these various authorities come together behind a principles-based approach to combating cyber-threats.

We are working with lawmakers and regulators to emphasize a common-sense approach to cybersecurity that harmonizes various protections and guards against cyber-threats, while also allowing firms of all sizes to maintain efficiency and flexibility in running their businesses.

In general, we believe that:

- 1) National standards are preferable to a patchwork of state-by-state rules;
- 2) Where possible, uniform approaches to cyber-threats should be pursued, while also incorporating enough flexibility to allow firms to develop effective solutions for different business models;
- 3) Cybersecurity standards should not place undue burdens on small businesses; and
- 4) All entities, whether private or public, should be held to a common, consumer-friendly data security standard.

With cybersecurity as one of our key advocacy priorities for 2020, we are taking the following practical steps to put this framework into action:

- **Supporting national data privacy legislation.** While it is still in its early stages, we support the draft privacy legislation circulated by Senate Commerce Committee Chairman Roger Wicker

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(R-MS) in December of last year. This bill would establish national rules for handling personal information online, creating uniform federal standards.

We intend to work with Senator Wicker and other members of Congress to secure national data breach notification requirements—instead of a patchwork of unique approaches—that ensure prompt and effective notice to consumers if their personal information is compromised.

// We are working with lawmakers and regulators to emphasize a common-sense approach to cybersecurity. //

- **Addressing concerns over FINRA's Consolidated Audit Trail (CAT) initiative.** As currently envisioned, FINRA's CAT database will be an enormous repository of highly-sensitive information, including personal and financial information on advisors' clients and their transactions. In developing this database, the regulator has required our members to provide confidential client information, including Social Security numbers, dates of birth and account numbers, among other data.

Needless to say, this ambitious project has caused significant unease over data security and privacy among firms and advisors alike, who are concerned that FINRA's database will simply provide a 'one-stop shop' for hackers and cyber-criminals. SEC Chairman Jay Clayton and several members of Congress have demonstrated that

they understand the gravity of these concerns.

We are working with regulators to support and advance potential solutions, including alternative approaches to collecting and storing Social Security numbers and other personally-identifying information, detailed data on transaction placement and execution, and more.

We firmly believe that this vast trove of sensitive client information must either be properly secured or simply not collected at all, as proposed in the request for exemptive relief filed by the CAT NMS Plan Participants.

- **Maintaining ongoing dialogue to educate regulators.** We continue to educate regulators on the challenges our members face each day in complying with rules that bear directly on cybersecurity, such as books and records requirements.

While FINRA and other regulators are still developing their thinking with respect to potential specific cybersecurity rules, the working dialogue we have established enables us to ensure that regulators are aware of our members' views on the cybersecurity approaches and tools that are working—as well as those that are not.

As FINRA and others begin to take a more proactive stance toward cybersecurity rulemaking, we will leverage our existing rapport with regulators to make sure that our members' perspectives and concerns play a significant role in this process.

Cybersecurity is a large, evolving challenge involving complex and disparate laws and regulations across the country. There is no 'silver bullet' that will enable us and other members of our industry to harmonize the sometimes confusing body of rules and laws that have emerged in response to this problem.

By advocating for a coordinated, common-sense approach that works for advisors and firms across the spectrum of size and business models, however, we are working to ensure that regulators and legislators will take a more holistic, principles-based perspective toward critical cybersecurity measures going forward.



"Clients expect both digital capabilities and a personalized experience."

WEALTH MANAGEMENT IS GOING DIGITAL AND PERSONALIZATION IS KEY

New wealth industry research from Refinitiv reveals that a truly personalized client experience is more in demand than ever. As the digital revolution continues apace, advisors should harness the power of data and technology to develop a more client-centric approach to their wealth management strategies.

The Digital Appetite is There, But Challenges Persist

Rapid advances in technology and the exponentially growing move towards digitalization in the global wealth management arena are forcing wealth managers to rethink their business, technology, and client engagement strategies.

Refinitiv's latest in-depth research, commissioned from global research and advisory firm, Aite Group, collated the findings from questionnaires and executive interviews with leading wealth management firms around the globe, and unpacked some of the major trends and developments that characterize the industry today.

The findings revealed a healthy digital appetite, with 86% of wealth management firms considering servicing clients as a highly important digital capability to acquire.

Whilst the technology to deliver these capabilities is readily available, the transformation of the industry is not without challenges—nearly half (46%) of

respondents are only partially satisfied or not at all satisfied with their current digital offerings.

Segmentation to Counter Wealth Transfer

Their research further revealed that 100% of respondents consider wealth transfer to be one of their top 3 concerns. Consequently, wealth managers must tailor their strategies according to the needs of a new generation of digitally savvy clients.

Many firms are already focusing on client segmentation, refining strategies that target specific client segments, and working to deliver fully customized offerings that meet the needs of those segments.

A highly significant 90% of respondents confirmed that they have recently reviewed or revised their client segmentation models, supporting our belief that a tailored and customized approach, rather than an approach based solely on individual AUM thresholds, is the key to future success.

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WEALTH MANAGEMENT IS GOING DIGITAL continued from page 11 ▶

Delivering a Personalized Experience

Clients expect both digital capabilities and a personalized experience, and in order to deliver this combination, firms are leveraging more data and digital touch points than ever before to understand their clients' wants, needs, desires and unique character traits.

This information can be used to create specific client personas that in turn foster greater transparency and strengthen client relationships by enabling advisors to provide a personalized digital experience based on individual preferences.

Personalizing the online experience helps firms to build lifetime value, but also delivers a host of other benefits, including improved engagement, investor education, and enhanced customer loyalty.

Those firms that successfully deliver personal experiences across often diverse client bases do so by ensuring the efficient collection, analysis and understanding of data. Where front office processes are able to take client requirements into account in a holistic manner, firms tend to be narrowing their traditional product shelves in favor of firm-defined model portfolios that are tailored to the client's risk profile, in the process allowing the focus to shift to building strong personal relationships.

This trend towards a narrowing product shelf, however, is not necessarily true for firms concentrating on ultra-high net worth (UHNW) clients. These organizations often offer clients tailored services, such as investment clubs or concierge services, and some are actually expanding their product offerings in certain areas—for example, by adding high quality alternative investments such as hedge funds, liquid alternatives, or private equity funds.

Technology and Data: A Powerful Mix

In order to develop meaningful personas, firms need access to accurate and complete data. Refinitiv's research shows that data and analytics are quickly becoming key differentiators for wealth management firms, by enabling them to serve clients more holistically and generate relevant, timely, and actionable insights: 61% of respondents viewed analytics and creating insights as "very important," and 39% as "important," for their firms over the next 12–18 months.

The stumbling block, however, is that many wealth managers continue to struggle with data sets that are inconsistent, dispersed across the organization, and/or hard to consolidate: the research indicates that the top concern or challenge associated with developing advisor analytic capabilities is building a clean database of advisor metrics.

The successful data models of the future will be those that are truly client-centric, and seamlessly connect the front and back offices, consolidating disparate product silos and legacy systems to deliver clean, complete and consolidated data.

“Rapid advances in technology and the exponentially growing move towards digitalization in the global wealth management arena are forcing wealth managers to rethink their business, technology, and client engagement strategies.”

Such data can be used to power the creation of persona-based segmentation models, which will in turn deliver more personalized client experiences. Open APIs are already becoming key enablers for implementing this type of strategy and, as the wealth management industry continues to evolve and digitize, Refinitiv expects to see technology helping to forge closer ties between advisors and clients, rather than driving a wedge between them.

Digital technologies will continue to redefine the wealth industry in the coming months and years, and traditional approaches to client engagement need to keep pace. As technology delivers increasingly innovative ways for advisors to personalize the experience for every client, developing a truly client-centric approach will be key to ongoing success.

To learn more about the key trends transforming the wealth management industry, read Refinitiv's full report [here](#).



Dear FSI Community,

I hope this email finds you, your families and your team in good health.

On March 9th, FINRA released a regulatory notice calling attention to the increased risk of cyber events as a result of advisor's remote operating environments. They have since issued another notice on March 26th providing a stark reminder to every one of the significant issues that must be addressed due to the prevalence of attacks targeting advisors within our industry.

I am concerned: Any incident or breach at this juncture could severely impact investor confidence at a time when they need the counsel of their financial advisors more than ever in our nation's history.

Workplace has the technology to address this challenge; and our organization's ethics and values require us to respond.

Today, we are prioritizing our team to make Workplace Frontline available to every advisor in the industry, for free – no gimmicks, no strings attached; and a timeframe that extends for the duration of this pandemic.

You may download Frontline here. os33.com/heretohelp

Our team is prepared to use its expertise and software to bolster the safety of our industry in this time of need – period. With Frontline, I hope you will gain peace of mind by confirming that every computer being utilized meets compliance requirements; and if there is an issue, we will help fix it.

For nearly 20 years, Workplace has been deploying its remote working and security platform for our industry. We look forward to servicing our industry for decades to come and hope that this gesture of support will help you today.

My best,

Morley Ivers
President, Workplace by OS33



FSI MEMBERS ON FINRA COMMITTEES: ANOTHER OPTION FOR MEMBER ENGAGEMENT

Member involvement is the cornerstone of our effective advocacy, and always will be. One opportunity to get engaged and make a real difference on behalf of our industry, though, is one that some members may not be familiar with: serving on FINRA's various committees.

Several of our members currently serve on the FINRA Board of Governors, including Christopher Flint, the President & CEO of ProEquities and Senior Vice President for Distribution Companies for Protective Life Insurance Company. Flint was elected to the Large Firm Board seat last summer.

Other members currently serving on the FINRA Board include Kovack Securities Co-Founder and President Brian Kovack, who is now in his second term; Cambridge Investment Research President and CEO Amy Webber; and Securities America CEO and President Jim Nagengast.

FINRA also began testing a new advisor committee last year. While it is still in the 'beta' stage, this group is made up of financial advisors who provide feedback to the regulator regarding various issues and proposals based on their first-hand experience in working with clients. FSI was pleased to provide the initial inspiration for this committee and to have a few FSI financial advisor members serving on the committee.

Beyond these two groups, FINRA also maintains other standing committees that bring together industry professionals representing a range of disciplines from across the country. These committees serve to advise FINRA on broad industry trends, provide input on the impact of the organization's regulatory programs and communicate high-level information regarding meeting discussions to their constituents.

Two FSI members who were recently elected to serve on FINRA committees, Eric Chartan and Elizabeth Hansen, shared their experiences with FSI Voice, shedding light on what it takes to win an election, their priorities as committee members and how they try to engage in positive action to get results for their firms, as well as for the broader industry.

Eric Chartan is a committee member in Texas. He is Vice President & Associate General Counsel at Avantax Investment Services.

Elizabeth Hansen is a committee member in the Midwest. She is Senior Vice President & Chief Compliance Officer at Waddell & Reed and Ivy Distributors, and is based in Overland Park, Kansas.

Winning FINRA Committee Elections

One common misconception that sometimes discourages members from pursuing roles on FINRA committees is the idea that campaigning for these seats—which are elected positions—may be overly time-consuming or complex.

As Chartan and Hansen point out, though, the 'campaign' element does not require a significant time commitment—and, as their experiences demonstrate, candidates have plenty of discretion to determine how much time and outreach they want to invest when running.

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“FINRA officials provide committee members useful information that sheds light on upcoming proposals or initiatives.”

FSI MEMBERS ON FINRA COMMITTEES *continued from page 15* ▶

Chartan, for example, took an aggressive approach in pursuing his spot. He contacted at least 100 executives from different firms in advance of the vote, including people he knew personally, with a clearly-defined message about why he was seeking the seat.

“During my campaign, I let people know that I wanted to drive clarity from FINRA about implementing Regulation Best Interest, and I wanted to get additional details about policy changes due to FINRA CEO Robert Cook’s FINRA360 internal review,” he says.

For her part, Hansen, who was nominated by an industry colleague, attributes her win to sharing information with peers while networking, attending conferences and participating in roundtables, rather than employing a more conventional campaign approach.

“I ran because I once was a FINRA examiner,” she said. “I know the value that FINRA provides through its engagement with firms and its willingness to drive practical regulation.”

Committee Member Priorities

Hansen and Chartan view the FINRA committees as a platform for expressing their own priorities. This, in part, means fully leveraging their opportunity to engage with FINRA officials about how regulatory initiatives could impact firms—something that, as working financial professionals, they are uniquely qualified to do.

“I believe FINRA wants to understand the industry better,” Hansen said. “That requires listening to what firms have to say, and for the most part, they do.”

Just as often, though, FINRA officials provide committee members useful information that sheds light on upcoming proposals or initiatives. This allows for plenty of constructive dialogue as rules and other initiatives are being considered and developed.

“Serving on the committee facilitates a healthy exchange of information, between leaders at FINRA and member firms,” Chartan said.

Taking Positive Action

Both Chartan and Hansen say that gathering with FINRA officials and other elected committee members in their respective regions enables them to take positive action on behalf of firms and the broader industry.

“This may be the best opportunity to get candid explanations on issues, like whether significant examination and enforcement cases are one-off decisions, or whether they represent an ongoing shift that firms should know about and potentially make changes,” Chartan said.

Such conversations allow committee members to provide feedback to FINRA officials on the importance of consistency in the regulator’s examinations and enforcement actions. Although FINRA has stated that it does not seek to conduct rulemaking through enforcement, financial professionals have expressed concerns that this practice continues to occur — putting firms in the position of having to interpret decisions based on limited information.

“This is where we can help FINRA clarify its regulatory intentions and champion the fact that the vast majority of people in this industry do right by their clients,” Hansen said. “Sharing FSI’s positive message is a major part of this process.”

Our members who serve on various FINRA committees provide an extremely valuable service for all of us, ensuring that FINRA hears perspectives from all of our industry’s various stakeholders. We encourage others to follow in the footsteps of dozens of our members who, like Chartan and Hansen, have served on FINRA committees. When professionals from our member firms actively work to inform the regulatory process, they help to build a business environment that works for everyone.





ADVOCACY UPDATE: SECURE ACT

The SECURE Act, which was signed into law late last year with our strong support, is the most significant retirement security legislation to take effect in at least a decade.

The law contains several provisions that address the retirement security crisis now affecting American workers by enhancing the private sector's ability to help employees plan and save for retirement. By one estimate, 42% of private-sector workers currently lack access to a workplace retirement savings plan.

We met with lawmakers throughout 2019 to clearly explain our members' support for the SECURE Act. We also issued calls to action that mobilized our membership to support the bill in the House and Senate. Finally, in a significant win for our industry, the SECURE Act was included in a must-pass appropriations bill before the end of the year. After passing in the Senate, President Trump signed it into law at the end of the year.

What's in the SECURE Act?

The SECURE Act makes it easier for businesses to start and operate qualified employee retirement plans and for investors to save their earnings. Some of its provisions include:

- Allowing multiple unrelated businesses to join together to form multi-employer retirement plans, in order to help defray costs and administrative burdens;
- Offering a \$500 per year tax credit for employers who establish a 401(k) or SIMPLE IRA plan that includes auto enrollment;
- Allowing businesses to enroll part-time workers in retirement plans;
- Reducing potential liability risk for employers who offer annuities as part of their retirement plans;
- Increasing the cap under which businesses can automatically enroll workers in "safe harbor" retirement plans from 10% of wages to 15%;
- Raising the age at which retirement plan beneficiaries must take required minimum distributions to 72 from 70½; and
- Removing the age limit for making IRA contributions.

We have long supported these reforms, which enjoyed support from legislators of both parties as well as numerous other stakeholders.

The law is not without its drawbacks, unfortunately. Most significantly, the SECURE Act curtails so-called 'stretch IRAs' by placing a 10-year limit on the window for non-spouse beneficiaries who have inherited IRAs to take distributions. That period had not previously been capped. We have defended the 'stretch IRA' for years as a valuable estate planning tool for investors, and we understand that many of our members are disappointed with this significant change.

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Each year our Board of Directors approves a long list of advocacy priorities that we work to advance. One of those priorities is addressing the retirement savings crisis through private-sector solutions. From a holistic perspective, the SECURE Act makes significant progress toward achieving that goal. We believe it will greatly increase Main Street Americans' retirement savings and provide positive opportunities for our members.

Supporting the SECURE Act through Productive Engagement with Lawmakers

The bill that would eventually become the SECURE Act was introduced in the House of Representatives in April 2019, and we quickly mobilized our members in a call to action to support it. The bill passed by a 417–3 vote on May 23.

In the Senate, the intent was to have a vote by unanimous consent, which would have expedited passage but required every senator to vote in favor. Three Republican senators, however—Ted Cruz of Texas, Pat Toomey of Pennsylvania and Mike Lee of Utah—raised objections.

We mounted a second call to action campaign in June, urging members to contact their senators in favor of the bill. We also specifically mobilized our members in Texas, Pennsylvania and Utah to contact Sens. Cruz, Toomey and Lee.

At the same time, our staff and Board members met with the chairman of the Senate banking committee, Sen. Mike Crapo of Idaho, as well as the committee's ranking member, Sen. Sherrod Brown of Ohio, to advocate in favor of the bill.



The legislation was also a key talking point as our members met with their legislators during our annual FSI Forum & Capitol Hill Day.

Moreover, we met with the staff of Senate Majority Leader Mitch McConnell, who explained that due to the three senators' objections, unanimous consent would not be possible, and that sending the bill to the floor for debate would likely mire it in long and ultimately unfruitful delays.

The only way forward was through inclusion of the SECURE Act within must-pass legislation such as an appropriations measure. This tactic successfully broke the logjam, and the law took effect on Jan. 1.

Helping to Obtain a Major Win for American Workers

Now that it has been passed into law, the SECURE Act will offer significant benefits to American workers and employers alike by lowering barriers to employee participation in retirement plans, and empowering employers to more easily establish and operate qualified plans.

Supporting Main Street Americans' ability to save for a financially secure retirement is a central part of our mission. We were very pleased to play a role in advancing the SECURE Act, and we look forward to working alongside our members to continue to strengthen our industry's ability to help clients successfully plan for retirement.

// It is imperative that firms and advisors be proactive and vigilant in spotting potential conflicts. //



KEY TAKEAWAYS FROM FSI'S LATEST REG BI WORKSHOP

We are committed to helping our members adapt to the SEC's new standard of care, Regulation Best Interest (Reg BI), as smoothly and efficiently as possible, in order to ensure that this new regulation functions effectively in protecting investors while providing clear guidelines to our industry on disclosure, mitigating potential conflicts of interest and other key areas.

With the June 30 deadline for Reg BI implementation fast approaching, we have brought together some of the industry's top regulatory thinkers to help our members prepare at our recurring Reg BI Workshops. The most recent workshop, held at this year's OneVoice event in San Diego, provided extensive actionable steps to help our members transition seamlessly into the Reg BI era.

Baker McKenzie partners A. Valerie Mirko, Peter K.M. Chan and Jerome Tomas—all members of the leading law firm's Financial Regulation & Enforcement Practice—offered invaluable

perspective on a host of issues related to the new rule, many revolving around the SEC's likely approach to early examinations and enforcement actions involving Reg BI.

Key observations from our latest workshop included:

- Examinations will likely start immediately, but early enforcement actions probably will not be pure Reg BI cases.**

The Baker McKenzie partners pointed out that the SEC's Office of Compliance Inspections and Examinations, or OCIE, has signaled that it intends to start conducting examinations for Reg BI compliance immediately. That means that members could start receiving letters notifying them of examinations as early as July 1.

Only the regulator itself knows how it will approach enforcement actions stemming from the first several months of examinations. More

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REG BI WORKSHOP continued from page 21 ▶

than likely, however, given the SEC's history of actions taken in the opening stages of a new regulatory regime, the early cases involving Reg BI probably will not be built solely on alleged Reg BI violations. Rather, enforcement teams will likely add on Reg BI-related claims to cases that they would have pursued anyway based on more traditional fraud or negligence theories. Further, those initial Reg BI-related claims will likely involve allegations of grossly deficient procedures or clear failures to make a good-faith effort to comply with the new rule.

As both the industry and regulators gain more experience in Reg BI examination and enforcement over the coming months and years, however, the panelists noted that they expect the SEC's approach to become more aggressive and more closely focused on specific Reg BI issues.

• Firms must be prepared to 'show their work.'

There is currently no comprehensive checklist that will prescriptively detail all the aspects of the processes and procedures for which firms' Reg BI compliance will be examined and adjudicated. In lieu of this, the panelists noted that firms can potentially reduce their risk of being hit with enforcement actions by establishing deliberate, thoughtful processes for identifying, mitigating and eliminating risks—and, just as importantly, by documenting each step in these processes as they are applied to decisions on products, recommendations and other areas.

Moreover, it will be crucial for firms to generate this documentation contemporaneously, rather than in hindsight, and to make this level of diligence a part of their core DNA in all aspects of their business. Allowing this discipline to



become siloed within the compliance or legal departments, the partners said, will open firms to significant risks in other areas of their operations.

There is, of course, no one-size-fits-all approach. Rather, the panelists pointed out that each firm's approach should factor in the firm's size, operational structure, the types of products it offers and its relationships with product sponsors. In general, firms should examine their entire organizations to ensure that they have the personnel, investment research capabilities and processes to comply with Reg BI. If they do not have appropriate resources in place, firms should not hesitate to seek assistance from outside experts.

- **Regulation by enforcement is likely to remain a concern in the near term.**

Though Reg BI is lengthy and detailed, it still contains areas that leave open the potential for examination- and enforcement-level discretion in how the rule is interpreted and applied. Unfortunately, according to the three panelists, this creates some potential for regulation by enforcement when it comes to Reg BI compliance.

As one example, the panelists cited Reg BI's treatment of firm-level versus representative-level conflicts. The rule is vague on the differentiations between the two treatments, yet the question of whether a given conflict is limited to one or a few representatives ('representative-level') or is more pervasive and systemic ('firm-level') carries significant implications when it comes to the steps firms will be expected to take in mitigating or eliminating such conflicts.

The Baker McKenzie partners noted that, until the industry receives greater clarity via more prescriptive guidance in the months and years

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ahead, firms should be prepared for Reg BI to be interpreted and applied according to the discretion of examination and enforcement officials in some cases.

We will, of course, work to oppose the spread of 'regulation by enforcement' to Reg BI cases as part of our top 2020 advocacy priorities.

- **In the regulatory world, Reg BI is the shape of things to come.**

In the end, the panelists noted that Reg BI fits into a broader context of regulatory trends at the SEC. While the agency has been lowering some regulatory barriers that previously blocked clients' access to investments that were previously available only to institutions, it has also increased its scrutiny of the fees and potential conflicts of interest among entities that intermediate that access, including financial advisors and independent financial services firms.

In the panelists' view, this heightened scrutiny will likely mean that we will see more enforcement cases against financial advisors, as well as longer investigations with more aggressive case theories. And, as noted above, regulation by enforcement will remain a cause for concern.

Given this landscape and the uncertainties surrounding Reg BI's implementation and enforcement, it is imperative that firms and advisors be proactive and vigilant in spotting potential conflicts. However, as the partners at our most recent Reg BI Workshop emphasized, it is not enough simply to have processes to address issues once they arise.

Firms must assiduously document every step of the processes and procedures they have in place to identify, mitigate and eliminate conflicts in accordance with the new rule. Ensuring a smooth transition into this new regulatory era may depend on it.