Across America, the Middle Looks Up for Grabs—Again

This year’s campaign—to be conducted against the grimiest economic backdrop for a presidential race in 75 years—is shaping up as unusually costly, grueling and unpredictable. Still, it is possible to pinpoint the kinds of places where the race may be decided. Those key spots are the swing counties in the most important swing states, such as Hamilton in Ohio, Arapahoe in Colorado and Volusia in Florida.

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FPA-sponsored Study Shows SRO Oversight a Costly Option

On December 15th FPA joined several other organizations in releasing a study evaluating the costs of improving investment adviser oversight under different approaches being considered by Washington policymakers. The study, which was conducted by the Boston Consulting Group, concluded that the SEC could achieve an effective frequency of examinations at about half of what it would cost to establish self-regulatory oversight and enforcement for investment advisers. Though the issue of whether advisers should come under SRO oversight has been hotly debated for well over a year, there has been little discussion of, and no information available on, the likely costs. With costs being conspicuously absent from the debate, FPA participated in the study to help inform both its members and policymakers. Joining FPA in commissioning the study were the CFP Board of Standards, the National Association of Personal Financial Advisors, the Investment Adviser Association and TD Ameritrade Institutional. Click here for more information

Possible Delay on 401(k) Disclosure Rules

With an April 1st effective date for new fee disclosure rules for 401(k) plan providers looming, the Department of Labor is reportedly considering delaying the compliance deadline. The problem plan providers face is that the final rules have yet to be published and they will need some time to ramp up for the new disclosures once they know the specific requirements. According to reports, the Department intends to publish the final rules this month. Though the Department could delay implementation of the rules, it may not go as far as extending the deadline by the year or more that some in the industry have been asking for.

Fiduciary Rules in 2012: Labor Likely, SEC Uncertain

Fiduciary standards will remain a hot topic in 2012, with and least one regulatory initiative likely to move to the next stage. The Department of Labor (DoL) has been signaling its intent to move forward with efforts to expand fiduciary responsibility under ERISA. The DoL withdrew its controversial rule proposal last year, but is expected to roll out a revised version soon. At the center of the controversy is how the rules will be applied to IRAs. Members of Congress from both parties had urged the DoL to step back from its earlier proposal and are urging the Department to proceed cautiously. Meanwhile, the timetable for possible SEC fiduciary rules for broker-dealers providing investment advice remains uncertain. The SEC recently released estimated dates for carrying out various rulemaking and other responsibilities under the Dodd-Frank Wall Street Reform and Consumer Protection Act. The tasks were divided into those expected to be accomplished in the first half of 2012 and those expected in the second half of the year. But along with several other items, fiduciary rulemaking fell into a third category of “Dates still to be determined,” indicating a fair amount of uncertainty about when and how the Commission will proceed.

For more information on the SEC's Dodd-Frank agenda, click here
Use of Social Media by Brokers and Advisers

On December 23, 2011, FINRA filed a Notice of Filing of Amendment 2 to Proposed Rule Changes with the SEC. On July 28, FINRA had filed a rule proposal with the SEC to, among other items, adopt new FINRA rule 2210, “Communications with the Public.” That proposal was the subject of some pointed comments and an amended version was released in November. Additional comments caused FINRA to come back with another revision that was filed with the SEC on December 23, 2011. This second proposed amendment would “exclude from the filing requirements retail communications that are posted on an online interactive electronic forum.”

In the original proposal FINRA had stated that these communications should be treated as “retail communications”, subject to pre-and post-filing requirements. Commentors argued that these communications were much more like “public appearances,” and should be treated the same (subject only to supervisory requirements). FINRA disagreed with the argument, but determined that it made sense to not require the filings.

In a related issue, on January 4, 2012, the SEC issued a National Examination Risk Alert on Investment Adviser Use of Social Media. The Alert reminded advisers that they should retain records of all communications, including all forms of social media. It was issued in connection with an enforcement action taken against a Chicago area adviser who alleged offered more than $500 billion in fictitious securities through various social media including LinkedIn.


SEC Alert http://www.sec.gov/about/offices/ocie/riskalert-socialmedia.pdf

SEC Issues New Net Worth Standard for Accredited Investors

On December 21, 2011, the SEC issued a final rule adopting amendments to the accredited investor standards. Section 413(a) of the Dodd-Frank Act had required the SEC to revise its definition of accredited investor to exclude the value of a person’s primary place of residence for purposes of determining if the person has a net worth in excess of $1 million. While section 413(a) changed the standard immediately, the SEC was still required to change its rules to match the new required standard. The rule change will become effective on February 27, 2012. Click here for more information

TAX ISSUES

Temporary Payroll Tax Cut Passed, Extenders in Limbo

Congress passed a 2-month extension of the 2-percent payroll tax holiday and federal unemployment insurance benefits. The House and Senate must now reach an agreement by Feb 29 on how to pay for the cut through the remainder of the year. Meanwhile, the fate of over fifty tax provisions that expired on December 31 is still in limbo. Congress is expected to renew some or all of them retroactively, but there is a chance that a decision won’t be made until after the November elections. A few of the provisions likely to be used by you or your clients include: alternative minimum tax (AMT) patch, tax-free rollover of IRA distributions to charity, deduction for state
and local sales taxes, residential energy credit, deductibility of mortgage insurance premiums, expanded small-business expensing (sec. 179), and 100% bonus depreciation (sec. 168).
Full list here:
http://www.jct.gov/publications.html?func=select&id=10

Muni Bonds Expected to Keep Tax Break
A number of deficit reduction proposals recommended eliminating the tax exemption for municipal bonds and President Obama proposed limiting the exemption to 28 percent. Most experts believe partisan bickering in Congress will prevent any change to their tax treatment, but some remain concerned.
Click here for more information

New Way to Report Capital Gains and Losses
In most cases, taxpayers will now use new Form 8949 to report capital gain and loss transactions. Schedule D, the form traditionally used to show these individual transactions, will now used as a summary sheet, reporting amounts for total sales price, basis and other adjustments for all individual transactions, and for figuring the tax.
Click here for more information

RETIREMENT

IRS Provides Cumulative List of 2011 Changes in Plan Qualification Requirements

The list is to be used by plan sponsors and practitioners submitting determination letter applications for plans during the period beginning February 1, 2012 and ending January 31, 2013. Click here for more information

STATE ISSUES

FPA Files Comment Letter with Washington State Insurance Office

On December 29, 2011, FPA filed a comment letter with the Washington State Office of the Insurance Commissioner supporting its proposal to adopt the NAIC Suitability in Annuity Transactions Model Regulation.

To see the full comment letter, please click here

Welcome New GR Directors

We would like to welcome the new GR directors for 2012.

Please contact Jennifer Rudolph by email (Jennifer.Rudolph@FPAnet.org) or phone (202-449-6348) to discuss your role and how we can best work together. Please be patient with us as our systems get updated with your information and let us know if you are not receiving Cap Update or have any other issues of concern.

We also want to let you know we have resources for you posted on our website under chapter officer resources here. (login required)

We look forward to working with everyone this year.
FPA Government Relations Teleconference Call Schedule for 2012 The following is the tentative 2012 schedule for all Government Relations teleconference calls with chapter leaders. Each call will be held on the second Tuesday of the month at 4:00 p.m. Eastern, unless otherwise noted. This schedule is subject to change:

- January 10th
- February 14th
- March 13th
- April 10th
- May 8th
- June 12th

- July 10th
- August 14th
- September 11th
- October 9th
- November 13th
- December 11th
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