Senior Designations Back in the Spotlight—a Regulatory Update

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by Keith Hickerson, MSM

With fiduciary rules stalled in an election year, see what regulatory moves are on the horizon for professional designations.

THE PERIOD BEFORE A major election typically generates little action on regulatory and legislative issues in Washington, but two items do bear watching this fall. The Consumer Financial Protection Bureau (CFPB) has begun work on recommendations for the use of senior designations, and the SEC and the Department of Labor continue to struggle with how to approach any broader application of a fiduciary standard of care.

WILL THERE BE FEWER PROFESSIONAL DESIGNATIONS IN THE FUTURE?

The American College estimates that there are now about 287 financial services credentials that could be used with the public. Because consumers have no real means of determining which of those represent rigorous education, letters after advisors’ names are all viewed equally. The American College has been speaking out about this issue for almost a decade.

Candidates for an acceptable designation should also meet appropriate experience requirements and complete closed-book, proctored exams covering the coursework.

Some lighter programs may be valuable as continuing education for advisors. Not all marks, however, are legitimate designations appropriate for use on an advisor’s business card.

Enter the CFPB. Under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, the CFPB’s Office of Older Americans is empowered to promote financial literacy for consumers 62 and older. While the CFPB has no jurisdiction over insurance, the recommendations they make to Congress and other regulators as well as the guidance they offer consumers can have an impact on the educational marks advisors choose to pursue.

The CFPB issued a request for public comment this summer about the use of senior financial advisor certifications and designations. When their
work is complete, we believe that for the first time there could be a way for seniors to gain a qualitative view as to which credentials are meaningful for their advisors to hold.

WHAT SEPARATES A GOOD CREDENTIAL FROM A WEAKER ONE?

In our public comment letter to the CFPB, The American College suggested that any designation used with a senior should represent at least nine semester credit hours of education. That's the acid test between lighter marks and those that are meaningful: Is the education there? It is a criterion that was missing from the earlier model rules on senior designations adopted by many states. A minimum national standard for the level of education required for valid credentials will go a long way in eliminating the public use of lesser designations.

Candidates for an acceptable designation should also meet appropriate experience requirements and complete closed-book, proctored exams covering the coursework. Continuing education requirements are essential as well.

Two areas—accreditation and standards of practice—have caused confusion among regulators and even some certification providers. The top level of accreditation is regional accreditation, the mark of educational excellence given to top colleges and universities. Other types of process-based accreditation are not as rigorous. While top designations and certifications should have enforceable ethics codes, the best marks should not discriminate against certain business models by attempting to mandate standards of care that differ from what regulatory authorities require.

A better-educated advisor is a significant benefit to seniors.

Regulators should encourage quality professional education for advisors serving seniors. It isn’t enough to focus on reducing the use of light or “weekend” credentials. Advisors with more professional education pose fewer compliance risks and are more likely to counsel seniors in appropriate ways. FINRA and other regulators should be cautious about releasing ambiguous guidance that results in companies prohibiting the use of high-quality professional designations.

We believe the CFPB may get it right.

The CFPB’s orientation toward consumer education for seniors may have a significantly positive effect on the quality of advisor education. With a governmental agency clearly identifying the minimum national standards for a meaningful designation, we see advisors, client companies and consumers all gravitating toward designations that represent real educational value. Stay tuned for more on this issue as the CFPB prepares recommendations over the coming months.

There has been no significant movement on an expanded fiduciary standard.

While several vocal proponents of a broader fiduciary standard continue to pummel the SEC with their views, it seems the SEC may be taking seriously their responsibility to do a full cost-benefit analysis. Still with no identified problem a change in established standards of care is intended to solve, regulators are beginning to understand just how complex the issue is relative to preserving the consumer choice, access and value provided by multiple business models.

The Department of Labor also continues to work on a revision to the standards of care under the Employee Retirement Income Security Act (ERISA), seemingly without adequate coordination with the SEC. Because their original proposals in this area met with such strong resistance from all sides, we can only hope that their next draft will present a more rational solution, especially relative to standards of care for advice on IRAs.

Pay attention. We’re moving into a period of opportunity and risk.

While no significant movement may occur before next year on any of these issues, it is important that we stay aware of any progress and continue to support our industry advocacy groups. What is good for consumers is ultimately good for our profession, and we need to make our voices heard to ensure that good intentions on the part of regulators are translated into what is truly in the best interest of the public.

Be sure to vote on Tuesday, November 6!