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CONSUMER FINANCE

Regulatory Coverage Generally Exists for Financial Planners, but Consumer Protection Issues Remain

GAO
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Highlights

Highlights of GAO-11-235, a report to congressional addressees

Why GAO Did This Study

Consumers are increasingly turning for help to financial planners—individuals who help clients meet their financial goals by providing assistance with such things as selecting investments and insurance products, and managing tax and estate planning. The Dodd-Frank Wall Street Reform and Consumer Protection Act mandated that GAO study the oversight of financial planners. This report examines (1) how financial planners are regulated and overseen at the federal and state levels, (2) what is known about the effectiveness of this regulation, and (3) the advantages and disadvantages of alternative regulatory approaches. To address these objectives, GAO reviewed federal and state statutes and regulations, analyzed complaint and enforcement activity, and interviewed federal and state government entities and organizations representing financial planners, various other arms of the financial services industry, and consumers.

What GAO Recommends

GAO recommends that (1) NAIC assess consumers' understanding of the standards of care associated with the sale of insurance products, (2) SEC assess investors' understanding of financial planners' titles and designations, and (3) SEC collaborate with the states to identify methods to better understand problems associated specifically with the financial planning activities of investment advisers. NAIC said it would consider GAO's recommendation and SEC provided no comments.

View GAO-11-235 or key components.
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What GAO Found

There is no specific, direct regulation of "financial planners" *per se* at the federal or state level, but various laws and regulations apply to most of the services they provide. Financial planners are primarily regulated as investment advisers by the Securities and Exchange Commission (SEC) and the states, and are subject to laws and regulation governing broker-dealers and insurance agents when they act in those capacities. Federal and state agencies have regulations on marketing and the use of titles and designations that also can apply to financial planners.

The regulatory structure applicable to financial planners covers the great majority of their services, but the attention paid to enforcing existing regulation can vary and certain consumer protection issues remain. First, consumers may be unclear about when a financial planner is required to serve the client's best interest, particularly when the same financial planner provides multiple services associated with different standards of care. SEC is studying these issues with regard to securities transactions, but no complementary review is under way by the National Association of Insurance Commissioners (NAIC) related to the sale of high-risk insurance products. Second, financial planners can adopt numerous titles and designations, which vary greatly in the expertise or training that they signify, but consumers may not understand or be able to distinguish among them. SEC has a mandated review under way on financial literacy among investors and incorporating this issue into that review could assist in assessing further changes that may be needed. Finally, the extent of problems related to financial planners is not fully known because SEC generally does not track data on complaints, examination results, and enforcement activities associated with financial planners specifically, and distinct from investment advisers as a whole. A regulatory system should have data to identify risks and problem areas, and given that financial planning is a growing industry that has raised certain consumer protection issues, regulators could benefit from better information on the extent of problems specifically involving financial planning services.

A number of stakeholders have proposed different approaches to the regulation of financial planners, including (1) creation of a federally chartered board overseeing financial planners as a distinct profession; (2) augmenting oversight of investment advisers with a self-regulatory organization; (3) extending the fiduciary standard of care to more financial services professionals; and (4) specifying standards for financial planners and the designations that they use. While the views of stakeholder interests vary, a majority of the regulatory agencies and financial services industry representatives GAO spoke with did not favor significant structural change to the overall regulation of financial planners because they said existing regulation provides adequate coverage of most financial planning activities. Given available information, an additional layer of regulation specific to financial planners does not appear to be warranted at this time.