

# Chapter 13

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## **SUMMARY:** **Financial Advisors**



This document is a summary of the full chapter on financial advisors in the Report *Protecting and Promoting the Health of NFL Players: Legal and Ethical Analysis and Recommendations*. The full chapter includes the following sections: (A) Background; (B) Current Legal Obligations; (C) Current Ethical Codes; (D) Current Practices; (E) Enforcement of Legal and Ethical Obligations; and, (F) Recommendations. Here, we provide our Recommendations, with only the minimum necessary background information. For more information and analysis of the role and responsibilities of financial advisors, including relevant citations, please see the full chapter.

Financial advisors play a critically important role in a player's long-term health. Proper financial advice and planning can maximize a player's career earnings, potentially provide the player with a comfortable retirement, help mitigate the consequences of the health issues suffered by many former players, and help avoid financial distress evolving into physical or mental distress.

Financial advisors are a variety of professionals whose services depend on their area of expertise but can include services such as tax planning, investment advice and services, budgeting, financial planning, insurance, estate planning and retirement planning. The NFLPA has a program whereby financial advisors can register with the NFLPA and are subject to its Regulations and Code of Conduct Governing Registered Player Financial Advisors ("Financial Advisor Regulations"). While there are approximately 262 NFLPA-registered financial advisors, there are many financial advisors working with NFL players who are not NFLPA-registered, many of whom likely could not meet the registration requirements.

Unlike contract advisors, who, under the National Labor Relations Act, are agents of the NFLPA as discussed in Chapter 12: Contract Advisors, financial advisors are not agents of the NFLPA. Consequently, the NFLPA does not have the authority to require players to only utilize NFLPA-registered financial advisors.

The financial advisor industry is extremely competitive. Many financial advisors recruit clients by calling them, texting them and sending recruitment materials as soon as the player demonstrates that he might become an NFL player. In addition, some financial advisors offer financial incentives as inducements to hire them, including payments in the tens or hundreds of thousands of dollars to players.

Players we interviewed were nearly unanimous in explaining the importance of financial advisors and financial health, while having mixed feelings about financial advisors themselves. The financial advisors we interviewed were similarly unanimous in their assessment that players are generally not well served by the current crop of financial advisors. The contract advisors we interviewed agreed, noting that while there are some well-qualified and ethical financial advisors, there are many who are not. However, some contract advisors recognized that financial advisors often have difficulty convincing the players to take certain financially responsible actions.

Despite the Financial Advisor Regulations' rigorous standards, the NFLPA currently lacks meaningful enforcement authority over financial advisors. The NFLPA requires registered financial advisors to consent to arbitration, but the arbitration mechanism only governs disputes concerning denial, suspension or revocation of the financial advisor's registration.

## Recommendations Concerning Financial Advisors

Financial advisors are governed by many robust codes of ethics that echo some of the same principles we incorporated into this Report. However, there are a variety of industry practices and realities that are preventing players from receiving the best possible financial guidance. Below are recommendations designed to improve the financial support provided to players.

### Goal 1: To make sure players get the best financial advice possible.

**Recommendation 13:1-A:** Players should be encouraged by the NFL, NFLPA, and contract advisors to work exclusively with NFLPA-registered financial advisors.

The NFLPA should encourage players to use those financial advisors whom it has determined have at least the minimal qualifications it is able to impose through its registration program. One possible mechanism by which the NFLPA could encourage players to use NFLPA-registered financial advisors is to collect the names of players' financial advisors each pre-season. If a player is using a financial advisor who is not registered with the NFLPA, the NFLPA should advise the player of the purposes and benefits of the NFLPA's registration system. If the player does not have a financial advisor, the NFLPA could advise the player to retain one and follow-up with the player to ensure that he does.

## Recommendations Concerning Financial Advisors – continued

### **Recommendation 1-B:** The NFLPA should strengthen its Financial Advisor Regulations.

The current Financial Advisor Regulations are robust and align well with other regulations and codes of ethics in the financial industry. Nevertheless, there are potential areas of improvement, including:

- **Requiring financial advisors to pass an examination concerning NFL economic and benefit provisions in order to be registered.** An examination would provide an additional and meritorious barrier to entry into the NFL player-financial advisor industry, while also educating financial advisors on the unique circumstances of NFL player employment and the variety of benefits available to players.
- **Prohibiting registered financial advisors from providing or offering money or any other thing of value to any player or any other person (e.g., the player’s family member) to induce or encourage the player to utilize the financial advisor’s services.** The NFLPA should prohibit such payments to ensure players are choosing financial advisors based exclusively on their merit and qualifications.
- **Providing the NFLPA with greater authority to conduct audits of financial advisors’ activities.** Section 3(l)(D) of the Financial Advisor Regulations requires registered financial advisors to consent to audits by a CPA at the player’s request. Players are unlikely to know when an audit might be necessary and are also unlikely to take advantage of this right. The NFLPA – in coordination with the right financial professionals – could undertake this action on behalf of players randomly. Even though the NFLPA would be unable to catch every bad actor, making it known that it conducts such audits should have at least some deterrent effect.
- **Requiring financial advisors to send the itemized statements required by Section 3(l)(A) of the Financial Advisor Regulations to the player’s contract advisor, unless the player objects.** Contract advisors can provide a valuable check on financial advisor fees and activities.
- **Requiring that financial advisors provide the NFLPA with a copy of any agreement with a player.** The NFLPA should review financial advisor-player agreements to ensure they are in compliance with the Financial Advisor Regulations and not otherwise concerning.
- **Requiring financial advisors to stay abreast of current issues affecting NFL players (with the NFLPA providing the necessary courses and information).**

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We recognize that the above recommendations would increase the NFLPA’s involvement in the financial advisor industry and would potentially require delicate maneuvering through complicated financial laws and regulations. Nevertheless, the NFLPA is in the most powerful position – and has as its mission – to help players. Thus, it should take every step that it reasonably can to help players by overseeing the actions of financial advisors.

### **Recommendation 13:1-C:** The NFLPA should consider investing greater resources in investigating and enforcing the Financial Advisor Regulations.

Without meaningful enforcement, the Regulations lose their effectiveness to the detriment of players. One possibility is hiring more attorneys to focus on these matters.

**Recommendations Concerning Financial Advisors** – continued

**Recommendation 13:1-D:** Players should be given information to ensure that they choose financial advisors based on their professional qualifications and experience and not the financial benefits the financial advisor has or is willing to provide to the player.

If the Financial Advisor Regulations are not amended to explicitly prohibit such arrangements as recommended above, it is important that the players understand the downsides of choosing their financial advisor based on loans or advances.

## Goal 2: To help players better manage their finances.

**Recommendation 13:2-A:** The NFLPA and NFL should consider holding regular courses on financial issues for players.

As is true of the population more generally, players often lack the financial sophistication to make sound financial decisions. The NFL has partnered with Money Management International, the country's largest non-profit credit and counseling service, to provide players with an educational website and a 24 hours a day, 7 days a week advice hotline. The NFLPA has established a near identical partnership with Financial Finesse, a company that provides financial education services. Both the NFL and NFLPA should be commended for these partnerships. However, players might not take advantage of these services. Consequently, an in-person introductory financial course would help to bridge the knowledge gap. Relatedly, such courses could advise players of their rights concerning their financial advisors, including the right to have their financial advisors' work audited.

**Recommendation 13:2-B:** The NFL and NFLPA should consider amending the player payment schedule so that players, by default, are paid over a twelve month period.

Players receive a check for each game they play. Thus, players generally only receive pay during the season. Some players might spend recklessly during the season, causing financial problems in the off-season or when their career is over. By paying a player over an entire year or deferring a player's salary payments for some period of time, the player will have additional income at a later point when he may not have otherwise saved for it. Making a twelve month payment schedule the default option could help ensure that all players have the opportunity to benefit from this possible change in payment schedule. Players should be free to opt out of a twelve month payment schedule if they like, but based on what we know from research on decision science it is likely that most players will stay with the default option.