

CERTIFIED FINANCIAL PLANNER  
BOARD OF STANDARDS, INC.

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May 29, 2008

Nancy Morris, Secretary  
Securities and Exchange Commission  
100 F Street, NW  
Washington, DC 20549-1090

Subject: File Number S7-10-00, Release No. IA-2711  
(Proposed Amendments to Form ADV)

Dear Ms. Morris:

The Certified Financial Planner Board of Standards, Inc. (CFP Board) appreciates the opportunity to comment on the Securities and Exchange Commission's (SEC) most recent proposal of amendments to Form ADV, Part 2.

We commend the SEC for incorporating in its current proposal many of CFP Board's comments, submitted in June 2000, to the SEC's prior proposed amendments to Form ADV, Part 2. We strongly believe the public will benefit from the enhanced overall disclosure. Specifically, we welcome the changes to the disclosure of conflicts of interest and material information contained in the latest proposal. The comments that follow are presented by CFP Board on behalf of the public that seeks financial services.

#### Background of the CFP Board

CFP Board is a non-profit certifying and standards-setting body that establishes and enforces education, examination, experience and ethics requirements for financial planning professionals. The mission of CFP Board is to benefit the public by granting the CERTIFIED FINANCIAL PLANNER™ certification and upholding it as the recognized standard of excellence for personal financial planning. CFP Board currently oversees more than 58,000 financial professionals who have met the initial and ongoing requirements for CFP® certification.

#### **Discussion of Form ADV, Part 2**

##### **A. Part 2A: The Firm Brochure**

###### **Item 1. Cover Page**

In comments CFP Board provided to the SEC in 2000, CFP Board stated that it "believes the brochure cover page should, in addition to a business address and telephone number, include the investment advisers' home page URL and primary email address" in order to facilitate research by investors. CFP Board



CERTIFIED FINANCIAL PLANNER™

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Certified Financial Planner Board of Standards Inc. owns these certification marks in the U.S., which it awards to individuals who successfully complete CFP Board's initial and ongoing certification requirements.

acknowledges the SEC's proposal to require disclosure of a website address on the brochure only if advisers have a website. We encourage the SEC to expand this caveat to require disclosure of a primary email address for any service center that functions as the investment adviser's primary point of contact.

CFP Board notes that some advisers may refer to themselves as a "registered investment adviser" to connote an official imprimatur. Like the SEC, we are concerned that without further explanation provided by the adviser, the public could be confused and misled by this term. Specifically, footnote 24 states that "[i]f the adviser holds itself out as being "registered," the cover page must also explain that registration with the SEC does not imply that the adviser possesses a certain level of skill or training... [this] appears to suggest that registration either carries some official imprimatur or indicates that the adviser has attained a particular level of skill or ability."

CFP Board shares the same concern with regard to credentials and designations. We note that the proliferation of credentials, particularly those aimed at elderly or senior investors, has created much confusion and has led to an increase in elder fraud -- a situation that the SEC is all too familiar with. CFP Board urges the SEC to harmonize its language on this point with the NASAA Model Rule that prohibits the use of certain combinations of words that serve to confer a false sense of legitimacy to a credential. In the alternative, if the SEC does not harmonize its language with the NASAA Model Rules, CFP Board urges the SEC to include language that if the adviser holds itself out as obtaining a designation, the adviser should provide a conspicuous note that the SEC does not endorse, approve or otherwise regulate the adviser's designation. CFP Board believes this would decrease the public's confusion with regard to the use of designations and credentials by an investment adviser.

#### **Item 4. Advisory Businesses**

In its 2000 Comments, CFP Board objected to the characterization that financial planning be considered a "specialty" or "type" of investment advisory service. CFP Board's rationale at that time was that financial planning can either be performed in conjunction with providing financial products or as a distinct and separate function from the practice of any other profession or occupation.

However, CFP Board agrees with the SEC's reasoning that "[it] is not that we believe that those specialties inherently pose additional risks to clients, although we would expect the adviser to disclose specific risks if a specialized advisory service poses those risks. Instead, our proposal simply

acknowledges that a client likely would want to know whether an adviser provides specialized advisory services before engaging that adviser.”

As such, CFP Board withdraws its objections from 2000 and approves of Item 4.

**Item 5. Fees and Compensation**

CFP Board believes that full disclosure of the methods of compensation is essential to a healthy investment adviser-client relationship and in the best interest of the public. In point of fact, CFP Board’s revised *Standards of Professional Conduct* (the “revised Standards”), which become effective July 1, 2008, call for enhanced disclosure by CFP® certificants of conflicts of interest and compensation and will require all CFP® certificants to disclose such information in the course of their relationships with their clients. The revised Standards will also require all CFP® certificants to act in a fiduciary manner when providing financial planning services by requiring them to put the best interests and needs of the client above their own. Therefore, we strongly support the disclosures the SEC has proposed in Item 5.

**Item 9. Disciplinary Information**

CFP Board supports the SEC proposal to require an adviser to disclose in its brochure material facts about any legal or disciplinary event that is material to a client’s evaluation of the integrity of the adviser or its management. With regard to legal events that must be disclosed on the brochure, we urge the SEC to consider including personal and business bankruptcies that have been filed within the previous five years, as well as the occurrence of any judgment lien in the previous five years. The public has a right to know such information when evaluating whether to do business with an investment adviser. Additionally, including these disclosures would level the playing field with registered representatives, who are currently required to disclose such information in the Central Registration Depository.

With regard to disciplinary events, CFP Board respectfully suggests that the current list of disciplinary events that are considered “presumptively material,” and therefore must be disclosed, is too narrow because it involves only criminal events and violations of securities laws. We urge the SEC to consider adding to this list disciplinary actions taken by state agencies and professional organizations, such as state bar associations, to suspend or revoke a professional license on the basis of a violation of rules or standards relating to professional conduct.

**Item 11. Code of Ethics**

CFP Board applauds the SEC for requiring in its proposal that a firm’s Code of Ethics be made available to the public. CFP Board believes that doing so

will increase transparency and accessibility with regard to an adviser's conflicts of interest in conducting transactions, an affiliated entity's financial interest in a transaction, and the consequences of transactions on certain investments. CFP Board strongly endorses Item 11 in its entirety.

## **Part 2B: The Brochure Supplement**

### **Item 2. Educational Background and Business Experience**

CFP Board notes with great pride that more than 58,000 financial planners throughout the country have earned the right to display the CFP® certification as a result of their completing rigorous education, examination, experience and ethics requirements. As such, display of the CFP® marks confers an adherence to high ethical standards and, effective July 1, the requirement that CFP® certificants owe a fiduciary duty to clients when engaged in the financial planning process. At the same time, CFP Board recognizes the grave danger posed by the proliferation of impressive-sounding credentials that are sometimes nothing more than fancy marketing gimmicks intended to assist unscrupulous individuals in perpetrating elderly fraud. CFP Board applauds the SEC's work in combating this fraud, and approves of the proposal in principle. However, CFP Board proposed enhancements to the current proposal. Specifically, CFP Board urges the SEC to require the listing of professional designations, provided these designations conform with the NASAA Model Rule governing such designations or certifications, as well as with applicable state regulations that prohibit the misleading use of designations or certifications.

To assist in this process, CFP Board believes that any reference to professional designations that will be available for public view should include the name of the organization granting the designation, as well as a hyperlink to publicly available websites, such as FINRA's "Understanding Professional Designations" website, which is located at <http://apps.finra.org/DataDirectory/1/prodesignations.aspx>. This information will enable consumers to learn: what the designation means; which organization grants it; what certification process is necessary to obtain it; whether continuing education credits are required to maintain it; and whether the granting authority has the right to revoke the designation due to a violation of one or more ethical standards.

### **Item 3. Disciplinary Information**

CFP Board strongly supports the disclosure of any legal or disciplinary event that is material to a client's evaluation of the supervised person's integrity. Additionally, we believe that the inclusion of proceedings revoking or suspending a professional attainment, designation, or license for disciplinary reasons is beneficial to the public. CFP Board requires its CFP® certificants

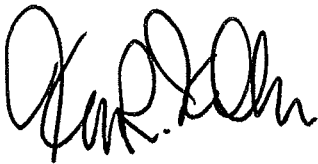
to disclose this information to CFP Board. We believe such disclosure should be a standard requirement for financial professionals.

**Item 4. Other Business Activities**

CFP Board believes that full disclosure of the methods of compensation and any conflict of interest are essential to a healthy investment adviser-client relationship and serves the best interests of the public. As stated previously, CFP Board's revised Standards will become effective July 1, 2008. The revised Standards will require all CFP<sup>®</sup> certificants to disclose conflicts of interest and compensation throughout the course of their relationships with their clients. CFP Board has a disciplinary process to ensure that all CFP<sup>®</sup> certificants are held accountable for abiding by the revised Standards. Therefore, we strongly support the disclosures proposed in Item 4.

CFP Board hopes the information it has provided is useful to the Commission. If you should have any questions regarding CFP Board, the financial planners it certifies, or the CFP<sup>®</sup> marks, please contact Michael Shaw, Managing Director of Legal & Public Policy at 202-379-2230, or visit CFP Board's website at [www.CFP.net](http://www.CFP.net).

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin R. Keller". The signature is fluid and cursive, with the first name being the most prominent.

Kevin R. Keller, CAE  
Chief Executive Officer