

## Appendix

### *Certified Financial Planner Board of Standards Code of Ethics and Professional Responsibility*

#### **Introduction**

This booklet contains three publications that describe the ethical and professional standards required of CFP® certificants. The *Code of Ethics and Professional Responsibility (Code of Ethics)* describes the minimum standards of acceptable professional conduct for individuals authorized to use CFP Board's CFP certification marks. At the back of the *Code of Ethics* are two of CFP Board's Advisory Opinions, which are issued from time to time to interpret the *Code of Ethics'* requirements, and sample disclosure forms, developed to aid certificants in complying with the *Code of Ethics'* disclosure requirements.

The *Financial Planning <i>Practice Standards</i>* (*<i>Practice Standards</i>*) establish the level of professional practice that is expected of a CFP certificant engaged in personal financial planning.

The *Disciplinary Rules and Procedures* describe the rules and procedures followed by CFP Board in enforcing the *Code of Ethics* and *<i>Practice Standards</i>*.

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This booklet is also available for download on CFP Board's Web site at **[www.CFP-Board.org](http://www.CFP-Board.org)**.

#### **Revisions from the 1/03 edition include:**

- Addition of "compensation" and "financial planning engagement" and update to "conflict(s) of interest" in "Terminology in this Booklet."
- Major revisions to the Rule 400 series, "Rules that Relate to the Principle of Fairness," in Code of Ethics.
- Addition of Advisory Opinion 2003-1.
- Update of Forms PFP (now Form FPE) and OPS sample disclosure forms.
- Updates to *<i>Practice Standards</i>* 100-1, 500-1 and 500-2 to reflect changes made to the Rule 400 series in Code of Ethics.

#### **Terminology in this Booklet**

"*Client*" denotes a person, persons, or entity who engages a practitioner and for whom professional services are rendered. For purposes of this definition, a practitioner is engaged when an individual, based upon the relevant facts and circumstances, reasonably relies upon information or service provided by that practitioner. Where the services of the practitioner are provided to an entity (corporation, trust, partnership, estate, etc.), the client is the entity acting through its legally authorized representative.

“*CFP Board designee*” denotes current certificants, candidates for certification, and individuals that have any entitlement, direct or indirect, to the CFP certification marks.

“*Commission*” denotes the compensation received by an agent or broker when the same is calculated as a percentage on the amount of his or her sales or purchase transactions.

“*Compensation*” is any economic benefit a CFP Board designee or related party receives from performing his or her professional activities.

“*Conflict(s) of interest*” exists when a CFP Board designee’s financial, business, property and/or personal interests, relationships or circumstances reasonably may impair his/her ability to offer objective advice, recommendations or services.

“*Fee-only*” denotes a method of compensation in which compensation is received solely from a client with neither the personal financial planning practitioner nor any related party receiving compensation which is contingent upon the purchase or sale of any financial product. A “related party” for this purpose shall mean an individual or entity from whom any direct or indirect economic benefit is derived by the personal financial planning practitioner as a result of implementing a recommendation made by the personal financial planning practitioner.

A “*financial planning engagement*” exists when a client, based on the relevant facts and circumstances, reasonably relies upon information or services provided by a CFP Board designee using the financial planning process.

“*Personal financial planning*” or “*financial planning*” denotes the process of determining whether and how an individual can meet life goals through the proper management of financial resources.

“*Personal financial planning process*” or “*financial planning process*” denotes the process which typically includes, but is not limited to, these six elements: establishing and defining the client-planner relationship, gathering client data including goals, analyzing and evaluating the client’s financial status, developing and presenting financial planning recommendations and/or alternatives, implementing the financial planning recommendations and monitoring the financial planning recommendations.

“*Personal financial planning subject areas*” or “*financial planning subject areas*” denotes the basic subject fields covered in the financial planning process which typically include, but are not limited to, financial statement preparation and analysis (including cash flow analysis/planning and budgeting), investment planning (including portfolio design, i.e., asset allocation and portfolio management), income tax planning, education planning, risk management, retirement planning and estate planning.

“*Personal financial planning professional*” or “*financial planning professional*” denotes a person who is capable and qualified to offer objective, integrated and comprehensive financial advice to or for the benefit of individuals to help them achieve their financial objectives. A financial planning professional must have the ability to provide financial planning services to clients, using the financial planning process covering the basic financial planning subjects.

“*Personal financial planning practitioner*” or “*financial planning practitioner*” denotes a person who is capable and qualified to offer objective, integrated and comprehensive financial advice to or for the benefit

of clients to help them achieve their financial objectives and who engages in financial planning using the financial planning process in working with clients.

## **Code of Ethics and Professional Responsibility**

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### **Preamble and Applicability**

The *Code of Ethics and Professional Responsibility (Code of Ethics)* has been adopted by Certified Financial Planner Board of Standards Inc. (CFP Board) to provide principles and rules to all persons whom it has recognized and certified to use the CFP<sup>®</sup>, CERTIFIED FINANCIAL PLANNER<sup>™</sup> and  certification marks (collectively “the marks”). CFP Board determines who is certified and thus authorized to use the marks. Implicit in the acceptance of this authorization is an obligation not only to comply with the mandates and requirements of all applicable laws and regulations but also to take responsibility to act in an ethical and professionally responsible manner in all professional services and activities.

For purposes of this *Code of Ethics*, a person recognized and certified by CFP Board to use the marks is called a CFP Board designee. This *Code of Ethics* applies to CFP Board designees actively involved in the practice of personal financial planning, in other areas of financial services, in industry, in related professions, in government, in education or in any other professional activity in which the marks are used in the performance of professional responsibilities. This *Code of Ethics* also applies to candidates for the CFP<sup>®</sup> certification who are registered as such with CFP Board. For purposes of this *Code of Ethics*, the term CFP Board designee shall be deemed to include current certificants, candidates and individuals who have been certified in the past and retain the right to reinstate their CFP certification without passing the current CFP<sup>®</sup> Certification Examination.

### **Composition and Scope**

The *Code of Ethics* consists of two parts: Part I – Principles and Part II – Rules. The Principles are statements expressing in general terms the ethical and professional ideals that CFP Board designees are expected to display in their professional activities. As such, the Principles are aspirational in character but

are intended to provide a source of guidance for CFP Board designees. The comments following each Principle further explain the meaning of the Principle. The Rules in Part II provide practical guidelines derived from the tenets embodied in the Principles. As such, the Rules describe the standards of ethical and professionally responsible conduct expected of CFP Board designees in particular situations. This *Code of Ethics* does not undertake to define standards of professional conduct of CFP Board designees for purposes of civil liability.

Due to the nature of a CFP Board designee's particular field of endeavor, certain Rules may not be applicable to that CFP Board designee's activities. For example, a CFP Board designee who is engaged solely in the sale of securities as a registered representative is not subject to the written disclosure requirements of Rule 402 (applicable to CFP Board designees engaged in personal financial planning) although he or she may have disclosure responsibilities under Rule 401. A CFP Board designee is obligated to determine what responsibilities he or she has in each professional relationship including, for example, duties that arise in particular circumstances from a position of trust or confidence that a CFP Board designee may have. The CFP Board designee is obligated to meet those responsibilities.

The *Code of Ethics* is structured so that the presentation of the Rules parallels the presentation of the Principles. For example, the Rules which relate to Principle 1 – Integrity are numbered in the 100 to 199 series, while those Rules relating to Principle 2 – Objectivity are numbered in the 200 to 299 series.

## **Compliance**

CFP Board requires adherence to this *Code of Ethics* by all CFP Board designees. Compliance with the *Code of Ethics*, individually and by the profession as a whole, depends on each CFP Board designee's knowledge of and voluntary compliance with the Principles and applicable Rules, on the influence of fellow professionals and public opinion, and on disciplinary proceedings, when necessary, involving CFP Board designees who fail to comply with the applicable provisions of the *Code of Ethics*.

## **Part I – Principles**

These *Code of Ethics*' Principles express the profession's recognition of its responsibilities to the public, to clients, to colleagues and to employers. They apply to all CFP Board designees and provide guidance to them in the performance of their professional services.

### **Principle 1 – Integrity**

*A CFP Board designee shall offer and provide professional services with integrity.*

As discussed in "Composition and Scope," CFP Board designees may be placed by clients in positions of trust and confidence. The ultimate source of such public trust is the CFP Board designee's personal integrity. In deciding what is right and just, a CFP Board designee should rely on his or her integrity as the appropriate touchstone. Integrity demands honesty and candor which must not be subordinated to personal gain and advantage. Within the characteristic of integrity, allowance can be made for innocent error and legitimate difference of opinion; but integrity cannot co-exist with deceit or subordination of one's principles. Integrity requires a CFP Board designee to observe not only the letter but also the spirit of this *Code of Ethics*.

### **Principle 2 – Objectivity**

*A CFP Board designee shall be objective in providing professional services to clients.*

Objectivity requires intellectual honesty and impartiality. It is an essential quality for any professional. Regardless of the particular service rendered or the capacity in which a CFP Board designee functions, a

CFP Board designee should protect the integrity of his or her work, maintain objectivity, and avoid subordination of his or her judgment that would be in violation of this *Code of Ethics*.

### **Principle 3 – Competence**

*A CFP Board designee shall provide services to clients competently and maintain the necessary knowledge and skill to continue to do so in those areas in which the CFP Board designee is engaged.*

One is competent only when he or she has attained and maintained an adequate level of knowledge and skill, and applies that knowledge effectively in providing services to clients. Competence also includes the wisdom to recognize the limitations of that knowledge and when consultation or client referral is appropriate. A CFP Board designee, by virtue of having earned the CFP® certification, is deemed to be qualified to practice financial planning. However, in addition to assimilating the common body of knowledge required and acquiring the necessary experience for certification, a CFP Board designee shall make a continuing commitment to learning and professional improvement.

### **Principle 4 – Fairness**

*A CFP Board designee shall perform professional services in a manner that is fair and reasonable to clients, principals, partners and employers, and shall disclose conflict(s) of interest in providing such services.*

Fairness requires impartiality, intellectual honesty and disclosure of conflict(s) of interest. It involves a subordination of one's own feelings, prejudices and desires so as to achieve a proper balance of conflicting interests. Fairness is treating others in the same fashion that you would want to be treated and is an essential trait of any professional.

### **Principle 5 – Confidentiality**

*A CFP Board designee shall not disclose any confidential client information without the specific consent of the client unless in response to proper legal process, to defend against charges of wrongdoing by the CFP Board designee or in connection with a civil dispute between the CFP Board designee and client.*

A client, by seeking the services of a CFP Board designee, may be interested in creating a relationship of personal trust and confidence with the CFP Board designee. This type of relationship can only be built upon the understanding that information supplied to the CFP Board designee will be confidential. In order to provide the contemplated services effectively and to protect the client's privacy, the CFP Board designee shall safeguard the confidentiality of such information.

### **Principle 6 – Professionalism**

*A CFP Board designee's conduct in all matters shall reflect credit upon the profession.*

Because of the importance of the professional services rendered by CFP Board designees, there are attendant responsibilities to behave with dignity and courtesy to all those who use those services, fellow professionals, and those in related professions. A CFP Board designee also has an obligation to cooperate with fellow CFP Board designees to enhance and maintain the profession's public image and to work jointly with other CFP Board designees to improve the quality of services. It is only through the combined efforts of all CFP Board designees, in cooperation with other professionals, that this vision can be realized.

### **Principle 7 – Diligence**

*A CFP Board designee shall act diligently in providing professional services.*

Diligence is the provision of services in a reasonably prompt and thorough manner. Diligence also includes proper planning for, and supervision of, the rendering of professional services.

## **Part II – Rules**

As stated in Part I – Principles, the Principles apply to all CFP Board designees. However, due to the nature of a CFP Board designee’s particular field of endeavor, certain Rules may not be applicable to that CFP Board designee’s activities. The universe of activities engaged in by a CFP Board designee is indeed diverse and a particular CFP Board designee may be performing all, some or none of the typical services provided by financial planning professionals. As a result, in considering the following Rules, a CFP Board designee must first recognize what specific services he or she is rendering and then determine whether or not a specific Rule is applicable to those services. To assist the CFP Board designee in making these determinations, the *Standards of Professional Conduct* includes a series of definitions of terminology used throughout the *Code of Ethics*. Based upon these definitions, a CFP Board designee should be able to determine which services he or she provides and, therefore, which Rules are applicable to those services.

### **Rules that Relate to the Principle of Integrity**

#### *Rule 101*

A CFP Board designee shall not solicit clients through false or misleading communications or advertisements:

- A. *Misleading Advertising:* A CFP Board designee shall not make a false or misleading communication about the size, scope or areas of competence of the CFP Board designee’s practice or of any organization with which the CFP Board designee is associated; and
- B. *Promotional Activities:* In promotional activities, a CFP Board designee shall not make materially false or misleading communications to the public or create unjustified expectations regarding matters relating to financial planning or the professional activities and competence of the CFP Board designee. The term “promotional activities” includes, but is not limited to, speeches, interviews, books and/or printed publications, seminars, radio and television shows, and video cassettes; and
- C. *Representation of Authority:* A CFP Board designee shall not give the impression that a CFP Board designee is representing the views of CFP Board or any other group unless the CFP Board designee has been authorized to do so. Personal opinions shall be clearly identified as such.

#### *Rule 102*

In the course of professional activities, a CFP Board designee shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation, or knowingly make a false or misleading statement to a client, employer, employee, professional colleague, governmental or other regulatory body or official, or any other person or entity.

#### *Rule 103*

A CFP Board designee has the following responsibilities regarding funds and/or other property of clients:

- A. In exercising custody of, or discretionary authority over, client funds or other property, a CFP Board designee shall act only in accordance with the authority set forth in the governing legal instrument (e.g., special power of attorney, trust, letters testamentary, etc.); and
- B. A CFP Board designee shall identify and keep complete records of all funds or other property of a client in the custody, or under the discretionary authority, of the CFP Board designee; and
- C. Upon receiving funds or other property of a client, a CFP Board designee shall promptly or as otherwise permitted by law or provided by agreement with the client, deliver to the client or third party any funds or other property which the client or third party is entitled to receive and, upon request by the client, render a full accounting regarding such funds or other property; and

- D. A CFP Board designee shall not commingle client funds or other property with a CFP Board designee's personal funds and/or other property or the funds and/or other property of a CFP Board designee's firm. Commingling one or more clients' funds or other property together is permitted, subject to compliance with applicable legal requirements and provided accurate records are maintained for each client's funds or other property; and
- E. A CFP Board designee who takes custody of all or any part of a client's assets for investment purposes, shall do so with the care required of a fiduciary.

### **Rules that Relate to the Principle of Objectivity**

#### *Rule 201*

A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services.

#### *Rule 202*

A financial planning practitioner shall act in the interest of the client.

### **Rules that Relate to the Principle of Competence**

#### *Rule 301*

A CFP Board designee shall keep informed of developments in the field of financial planning and participate in continuing education throughout the CFP Board designee's professional career in order to improve professional competence in all areas in which the CFP Board designee is engaged. As a distinct part of this requirement, a CFP Board designee shall satisfy all minimum continuing education requirements established for CFP Board designees by CFP Board.

#### *Rule 302*

A CFP Board designee shall offer advice only in those areas in which the CFP Board designee has competence. In areas where the CFP Board designee is not professionally competent, the CFP Board designee shall seek the counsel of qualified individuals and/or refer clients to such parties.

### **Rules that Relate to the Principle of Fairness**

#### *Rule 401*

In rendering professional services, a CFP Board designee shall disclose to the client:

- a) Material information relevant to the professional relationship, including, conflict(s) of interest, the CFP Board designee's business affiliation, address, telephone number, credentials, qualifications, licenses, compensation structure and any agency relationships, and the scope of the CFP Board designee's authority in that capacity; and
- b) The information required by all laws applicable to the relationship in a manner complying with such laws.

#### *Rule 402*

A CFP Board designee in a financial planning engagement shall make timely written disclosure of all material information relative to the professional relationship. In all circumstances and prior to the engagement, a CFP Board designee shall, in writing:

- a) Disclose conflict(s) of interest and sources of compensation; and
- b) Inform the client or prospective client of his/her right to ask at any time for information about the compensation of the CFP Board designee.
- c)



As a guideline, a CFP Board designee who provides a client or prospective client with the following written disclosures, using Form ADV, a CFP Board Disclosure Form or an equivalent document, will be considered to be in compliance with this Rule:

- The basic philosophy of the CFP Board designee (or firm) in working with clients. This includes the philosophy, theory and/or principles of financial planning which will be utilized by the CFP Board designee; and
- Résumés of principals and employees of a firm who are expected to provide financial planning services to the client and a description of those services. Such disclosures shall include educational background, professional/employment history, professional designations and licenses held; and
- A statement that in reasonable detail discloses (as applicable) conflict(s) of interest and source(s) of, and any contingencies or other aspects material to, the CFP Board designee's compensation; and
- A statement describing material agency or employment relationships a CFP Board designee (or firm) has with third parties and the nature of compensation resulting from such relationships; and
- A statement informing the client or prospective client of his/her right to ask at any time for information about the compensation of the CFP Board designee.

#### *Rule 403*

Upon request by a client or prospective client, the CFP Board designee in a financial planning engagement shall communicate in reasonable detail the requested compensation information related to the financial planning engagement, including compensation derived from implementation. The disclosure may express compensation as an approximate dollar amount or percentage or as a range of dollar amounts or percentages. The disclosure shall be made at a time and to the extent that the requested compensation information can be reasonably ascertained. Any estimates shall be clearly identified as such and based on reasonable assumptions. If a CFP Board designee becomes aware that a compensation disclosure provided pursuant to this rule has become significantly inaccurate, he/she shall provide the client with corrected information in a timely manner.

#### *Rule 404*

The disclosures required of a CFP Board designee in a financial planning engagement described under Rule 402 shall be offered at least annually for current clients, and provided if requested.

#### *Rule 405*

A CFP Board designee's compensation shall be fair and reasonable.

#### *Rule 406*

A CFP Board designee who is an employee shall perform professional services with dedication to the lawful objectives of the employer and in accordance with this *Code of Ethics*.

#### *Rule 407*

A CFP Board designee shall:

- a) Advise his/her employer of outside affiliations which reasonably may compromise service to an employer;
- b) Provide timely notice to his/her employer and clients about change of CFP® certification status; and

- c) Provide timely notice to clients, unless precluded by contractual obligations, about change of employment.

*Rule 408*

A CFP Board designee shall inform his/her employer, partners or co-owners of compensation or other benefit arrangements in connection with his or her services to clients, which are in addition to compensation from the employer, partners or co-owners for such services.

*Rule 409*

If a CFP Board designee enters into a personal business transaction with a client, separate from regular professional services provided to that client, the transaction shall be on terms which are fair and reasonable to the client and the CFP Board designee shall disclose, in writing, the risks of the transaction, conflict(s) of interest of the CFP Board designee, and other relevant information, if any, necessary to make the transaction fair to the client.

**Rules that Relate to the Principle of Confidentiality**

*Rule 501*

A CFP Board designee shall not reveal — or use for his or her own benefit — without the client’s consent, any personally identifiable information relating to the client relationship or the affairs of the client, except and to the extent disclosure or use is reasonably necessary:

- A. To establish an advisory or brokerage account, to effect a transaction for the client, or as otherwise impliedly authorized in order to carry out the client engagement; or
- B. To comply with legal requirements or legal process; or
- C. To defend the CFP Board designee against charges of wrongdoing; or
- D. In connection with a civil dispute between the CFP Board designee and the client.

For purposes of this rule, the proscribed use of client information is improper whether or not it actually causes harm to the client.

*Rule 502*

A CFP Board designee shall maintain the same standards of confidentiality to employers as to clients.

*Rule 503*

A CFP Board designee doing business as a partner or principal of a financial services firm owes the CFP Board designee’s partners or co-owners a responsibility to act in good faith. This includes, but is not limited to, adherence to reasonable expectations of confidentiality both while in business together and thereafter.

**Rules that Relate to the Principle of Professionalism**

*Rule 601*

A CFP Board designee shall use the marks in compliance with the rules and regulations of CFP Board, as established and amended from time to time.

*Rule 602*

A CFP Board designee shall show respect for other financial planning professionals, and related occupational groups, by engaging in fair and honorable competitive practices. Collegiality among CFP Board designees shall not, however, impede enforcement of this *Code of Ethics*.

### *Rule 603*

A CFP Board designee who has knowledge, which is not required to be kept confidential under this *Code of Ethics*, that another CFP Board designee has committed a violation of this *Code of Ethics* which raises substantial questions as to the designee's honesty, trustworthiness or fitness as a CFP Board designee in other respects, shall promptly inform CFP Board. This rule does not require disclosure of information or reporting based on knowledge gained as a consultant or expert witness in anticipation of, or related to, litigation or other dispute resolution mechanisms. For purposes of this rule, knowledge means no substantial doubt.

### *Rule 604*

A CFP Board designee who has knowledge, which is not required under this Code of Ethics to be kept confidential, and which raises a substantial question of unprofessional, fraudulent or illegal conduct by a CFP Board designee or other financial professional, shall promptly inform the appropriate regulatory and/or professional disciplinary body. This rule does not require disclosure or reporting of information gained as a consultant or expert witness in anticipation of, or related to, litigation or other dispute resolution mechanisms. For purposes of this Rule, knowledge means no substantial doubt.

### *Rule 605*

A CFP Board designee who has reason to suspect illegal conduct within the CFP Board designee's organization shall make timely disclosure of the available evidence to the CFP Board designee's immediate supervisor and/or partners or co-owners. If the CFP Board designee is convinced that illegal conduct exists within the CFP Board designee's organization, and that appropriate measures are not taken to remedy the situation, the CFP Board designee shall, where appropriate, alert the appropriate regulatory authorities, including CFP Board, in a timely manner.

### *Rule 606*

In all professional activities a CFP Board designee shall perform services in accordance with:

- A. Applicable laws, rules and regulations of governmental agencies and other applicable authorities;  
and
- B. Applicable rules, regulations and other established policies of CFP Board.

### *Rule 607*

A CFP Board designee shall not engage in any conduct which reflects adversely on his or her integrity or fitness as a CFP Board designee, upon the marks, or upon the profession.

### *Rule 608*

The Investment Advisers Act of 1940 requires registration of investment advisers with the U.S. Securities and Exchange Commission and similar state statutes may require registration with state securities agencies. CFP Board designees shall disclose to clients their firms' status as registered investment advisers. Under present standards of acceptable business conduct, it is proper to use registered investment adviser if the CFP Board designee is registered individually. If the CFP Board designee is registered through his or her firm, then the CFP Board designee is not a registered investment adviser but a person associated with an investment adviser. The firm is the registered investment adviser. Moreover, RIA or R.I.A. following a CFP Board designee's name in advertising, letterhead stationery, and business cards may be misleading and is not permitted either by this *Code of Ethics* or by SEC regulations.

*Rule 609*

A CFP Board designee shall not practice any other profession or offer to provide such services unless the CFP Board designee is qualified to practice in those fields and is licensed as required by state law.

*Rule 610*

A CFP Board designee shall return the client's original records in a timely manner after their return has been requested by a client.

*Rule 611*

A CFP Board designee shall not bring or threaten to bring a disciplinary proceeding under this Code of Ethics, or report or threaten to report information to CFP Board pursuant to Rules 603 and/or 604, or make or threaten to make use of this Code of Ethics for no substantial purpose other than to harass, maliciously injure, embarrass and/or unfairly burden another CFP Board designee.

*Rule 612*

A CFP Board designee shall comply with all applicable renewal requirements established by CFP Board including, but not limited to, payment of the biennial CFP Board designee fee as well as signing and returning the Terms and Conditions of Certification in connection with the certification renewal process.

**Rules that Relate to the Principle of Diligence**

*Rule 701*

A CFP Board designee shall provide services diligently.

*Rule 702*

A financial planning practitioner shall enter into an engagement only after securing sufficient information to satisfy the CFP Board designee that:

- A. The relationship is warranted by the individual's needs and objectives; and
- B. The CFP Board designee has the ability to either provide requisite competent services or to involve other professionals who can provide such services.

*Rule 703*

A financial planning practitioner shall make and/or implement only recommendations which are suitable for the client.

*Rule 704*

Consistent with the nature and scope of the engagement, a CFP Board designee shall make a reasonable investigation regarding the financial products recommended to clients. Such an investigation may be made by the CFP Board designee or by others provided the CFP Board designee acts reasonably in relying upon such investigation.

*Rule 705*

A CFP Board designee shall properly supervise subordinates with regard to their delivery of financial planning services, and shall not accept or condone conduct in violation of this Code of Ethics.

**Advisory Opinion 2001-1**

*Loans between CFP Board designees and their clients should be avoided in the client-planner relationship.*

## **Background**

The Board of Professional Review (the “BOPR”) has generally viewed loans between CFP Board designees and their clients unfavorably and, in the majority of cases, to be a violation of the *Code of Ethics and Professional Responsibility (Code of Ethics)*. Since the *Code of Ethics* does not have a rule that specifically prohibits such transactions, however, the BOPR has addressed the issue under various rules, depending upon the facts and circumstances of the case being examined.

Due to an increase in the number of disciplinary cases that involve the issue of loans between a CFP Board designee and his or her client, the BOPR is issuing this advisory opinion to clarify its position and to serve as a guide to both CFP Board designees and their clients.

## **Issue**

Whether a loan between a CFP Board designee and his or her client(s) violates the *Code of Ethics*.

## **Analysis**

Cases involving a loan between a CFP Board designee and a client involve an investigation of whether that CFP Board designee has violated the Code of Ethics. The BOPR has evaluated these cases under a number of rules, including, but not limited to, Rules 201, 202, 401, 402, 606, 607 and 703. To determine which, if any, rules have been violated, the BOPR considers:

- Whether the designee is a financial planning practitioner (as defined by the *Code of Ethics*).
- Whether the client is a family member or a financial institution. The degree to which the CFP Board designee is related to the client is relevant. (The rationale for considering the type of relationship is discussed later in this opinion.)
- Whether the terms and conditions of the loan are fair and reasonable to the client.

While any and/or all of the rules mentioned above, and others, may apply in a particular case, this advisory opinion focuses on two rules which are implicated in the majority of “loan” cases and are, therefore, most frequently cited by the BOPR: Rules 202 and 607.

## **Rule 202**

Rule 202 of the *Code of Ethics* requires financial planning practitioners to act in the best interest of their clients. Accordingly, this rule applies to CFP Board designees who are acting as financial planning practitioners, defined in the *Code of Ethics* as:

“[A] person who is capable and qualified to offer objective, integrated and comprehensive financial advice to or for the benefit of clients to help them achieve their financial objectives and who engages in financial planning using the financial planning process in working with clients.”

## **Borrowing from a Client**

In cases involving a loan between a financial planning practitioner and a client, where the client is the lender and the practitioner is the borrower, the BOPR presumes that the practitioner is not acting in the best interest of the client.

## **BOPR Recognizes Exceptions**

There are two exceptions to this presumption:

- 1) When the client is a family member; or
- 2) When the client is a financial institution acting in its normal course of business activity.

The BOPR recognizes that borrowing and/or lending of funds between family members is a common, generally accepted, practice. Likewise, financial institutions are in the business of borrowing and lending

funds and, as such, often provide loans to individuals, regardless of whether they are CFP Board designees. In both instances, loans between these groups can fall outside the scope of the planner-client relationship. In either of the two situations described above, while the BOPR does not presume that the planner's borrowing of funds is a violation of Rule 202, it may still find that the transaction was not in the client's best interests if the financial planning practitioner is unable to establish that:

- The terms and conditions of the loan were clearly and objectively disclosed to the client, taking into consideration the client's level of sophistication;
- The terms and conditions of the transaction were fair and reasonable under the circumstances; and
- The client fully understood (a) the terms and conditions of the transaction and (b) the impact of the transaction on his/her financial situation.

### **Lending to a Client**

In the more rare case where a financial planning practitioner lends funds to a client, the BOPR will presume that the practitioner is not acting in the best interest of the client, as a client who borrows funds from his or her planner is likely to be inhibited from ending the planner-client relationship, regardless of whether the client's financial planning needs are being met. Even if the financial planning practitioner can demonstrate that a particular loan to a client did not inhibit the client from ending the relationship, the transaction will still be presumed to be a violation of Rule 202 if (a) the loan was used as an enticement for the client to make a financial decision, including, but not limited to, purchasing a financial product, or (b) the loan had a below market interest rate and could be considered a form of rebate.

The exception to this presumption is when the client is a family member. Even if the client is a family member, however, the BOPR may still find that the transaction was not in the client's best interest if the financial planning practitioner is unable to establish that (a) the terms and conditions of the loan were clearly and objectively disclosed to the client, taking into consideration the client's level of sophistication, (b) the terms and conditions of the transaction were fair and reasonable under the circumstances, and (c) the client fully understood the terms and conditions of the transaction and the impact the transaction may have on his/her financial situation.

### **Rule 607**

Rule 607 prohibits a CFP Board designee from engaging "in any conduct which reflects adversely on his or her integrity or fitness as a CFP Board designee, upon the marks, or upon the profession."

As defined in the *Code of Ethics*, CFP Board designees include individuals who are currently certified, candidates for certification, and individuals who have any entitlement, either direct or indirect, to use the CFP certification marks. Accordingly, this rule has been interpreted to apply to all CFP Board designees regardless of whether they are practitioners, including candidates for certification, and individuals who have the right to renew their CFP® certification without re-taking CFP Board's CFP® Certification Examination.

### **Whether the Client is the Borrower or Lender**

The BOPR interprets Rule 607 broadly, finding conduct which gives the "appearance of impropriety" to be a violation of the rule. Accordingly, the BOPR has taken the position that most loans between a CFP Board designee and a client give the appearance of impropriety and, therefore, reflect negatively on the integrity of the designee, the CFP marks and the financial planning profession.

## **BOPR Recognizes Exceptions**

The same two exceptions discussed under Rule 202 (i.e., loans between a planner and a family member or loans between a planner and a financial institution) apply under Rule 607 when the planner is the borrower. In cases where the client is the borrower, only the family member exception applies. Even if one of the exceptions applies, the BOPR may still find that the transaction violates Rule 607 if the CFP Board designee fails to establish that:

- The terms and conditions of the loan were clearly and objectively disclosed to the client;
- The terms and conditions of the transaction were fair and reasonable under the circumstances; and
- The client fully understood (a) the terms and conditions of the transaction and (b) the impact of the transaction on his/her financial situation.

## **Summary**

The BOPR urges all CFP Board designees to avoid the practice of borrowing from or lending to clients. This advisory opinion focuses on the two most frequently cited rules (Rules 202 and 607) in cases involving loans between CFP Board designees and their clients. CFP Board designees should remember, however, that the BOPR may find such transactions to be in violation of other rules in the *Code of Ethics*, as well.

## **Advisory Opinion 2003-1**

*CFP Board designees must avoid possible misrepresentation when using the term “fee-only.”*

## **Background**

The Board of Professional Review (“BOPR”) views misrepresentation of compensation arrangements to be a violation of the *Code of Ethics and Professional Responsibility (Code of Ethics)*. The *Code of Ethics* defines the term “fee-only” as denoting “a method of compensation in which compensation is received solely from a client with neither the personal financial planning practitioner nor any related party receiving compensation which is contingent upon the purchase or sale of any financial product.” BOPR Advisory Opinions 97-1 and 97-2 allowed for a designee to use the term “fee-only” to describe the compensation received from a specific client, even if other methods of compensation were used with other clients, and could offer “fee-only” services to a client, even if the designee also received commissions from the same client or other clients for other services. In light of recent regulatory trends regarding the misrepresentation of methods of compensation, media focus on the issue, and the perceptions of the general public, the BOPR has redefined the appropriate use of the term “fee-only.”

The purpose of this Advisory Opinion is to reduce confusion on the part of CFP Board designees, their clients, and the public, and to maintain consistency with other organizations’ use of the term “fee-only.” Thus, the Board of Governors withdrew Advisory Opinions 97-1 and 97-2 in January 2002 and the *Code of Ethics* definition can no longer be considered an accurate reflection of the BOPR’s position on this issue.

## **Issue**

When may a CFP Board designee use the term “fee-only” to describe the designee as an individual, the designee’s practice or the designee’s services?

## **Analysis**

A fee arrangement exists when the CFP Board designee is compensated solely by the client, or another party operating exclusively on behalf of the client, for professional services provided. The BOPR has defined types of compensation arrangements. The following qualify as fees:

- *Hourly, fixed or flat fees;*
- *Percentage fees*, which are based on some aspect of the client’s financial profile, such as assets under management or earned income; and
- *Performance-based fees*, which are tied to the profitability of the client’s invested assets.

There are other compensation arrangements under which a CFP Board designee could be compensated for working with a client. In some of these arrangements, the designee may be paid by a third party for the recommending, referring or selling of a product and/or service. These arrangements, including, but not limited to the following, shall not be interpreted as fees under the Code of Ethics:

- *Commission*, generated from a product or service. In addition to traditional commissions, this includes, 12(b)1 fees, trailing commissions, surrender charges, and contingent deferred sales charges, even if used to reduce or offset other fees;
- *Referral compensation*, providing compensation or other economic benefits to the CFP Board designee for recommending, introducing or referring a product or service provided by another person or entity, even if used to reduce or offset other fees.

### **Use of the Term “Fee-Only”**

In order for a CFP Board designee to describe his or her compensation as “fee-only”, all compensation from all clients must be derived solely from fees. Minimal exceptions may be allowed provided the compensation is inconsequential and independent of the purchase of any product or service. Likewise, when using terms including, but not limited to, “fee-only services” and “fee-only firm,” the same requirements apply.

### **Potential Rule Violations**

Cases involving misrepresentation of compensation arrangements or failure to disclose compensation arrangements warrant investigation of whether that CFP Board designee has violated the Code of Ethics. The rules implicated in this analysis include, but are not limited to, Rules 101(a) and (b), 102, 201, 202, 401, 402, 606, 607 and 702. The BOPR must consider whether the CFP Board designee is a financial planning practitioner (as defined by the Code of Ethics) in determining which, if any, rules have been violated. While any and/or all of the rules mentioned above may apply in a particular case, this advisory opinion focuses on three rules that would most often be implicated in a case involving misrepresentation of and/or failure to disclose compensation arrangements: Rules 101(a) and (b), 401 and 402.

#### **Rule 401**

Rule 401 of the Code of Ethics requires CFP Board designees to disclose to the client material information relative to the professional relationship, including compensation structure. The BOPR urges that disclosures under Rule 401 be clear, straightforward and unambiguous so as to be easily understood by all parties. In cases involving CFP Board designees who represent themselves as “fee-only” to a client but accept compensation not defined as fees by the BOPR from that relationship or other client relationships, the BOPR presumes that the CFP Board designee has failed to disclose material information relative to the professional relationship.

#### **Rule 402**

Rule 402 requires CFP Board designees in a financial planning engagement to make timely written disclosure of all material information relative to the professional relationship, in all circumstances and prior to the relationship, including sources of compensation. Adherence to the provisions of Rule 402 by CFP Board designees in financial planning engagements allows the public to make informed decisions about



whether to use the professional services of the CFP Board designee. Rule 402(a) is violated when the CFP Board designee in a financial planning engagement, in the disclosure provided to the client, represents himself or herself as “fee-only” when, in fact, that designee accepts compensation not defined as fees by the BOPR in that relationship or other client relationships.

### **Rule 101(a) and (b)**

Rule 101(a) and (b) prohibit CFP Board designees from soliciting clients through false or misleading advertisements and/or promotional activities. The use of the term “fee-only” must be used carefully and only when the CFP Board designee derives all compensation from all clients solely from fees. The BOPR presumes advertisements and/or promotional activities to be false or misleading when they contain the term “fee-only” and the CFP Board designee advertising or promoting his or her services accepts compensation not defined as fees from that client relationship or any other client relationships.

### **Summary**

The public regards compensation structure as important information when choosing a financial planning professional. The Code of Ethics requires CFP Board designees to act with integrity and fairness toward the public in all activities. The appropriate use of the term “fee-only” in all public discourse provides a key opportunity for CFP Board designees to demonstrate professionalism by avoiding casual use of the term. The BOPR advises CFP Board designees to avoid using the term “fee-only” except when all compensation from all clients is derived solely from fees. CFP Board designees should also avoid the use of other terms designed to induce the public into a distorted belief that the designee receives “fee-only” compensation when in fact the designee receives commissions, referral compensation, or any other form of compensation not defined as fees by the BOPR.

### **Sample Disclosure Forms**

Following are two sample disclosure forms for use by CFP® certificants in complying with CFP Board’s *Code of Ethics and Professional Responsibility (Code of Ethics)* disclosure requirements. The first form (Form FPE) may be used in financial planning engagements. The second form (Form OPS) is for use when providing other professional services.

These forms provide for certain disclosures to clients (or potential clients) as required by CFP Board’s *Code of Ethics*, with corresponding Rules in the *Code of Ethics* referenced in parentheses. The client acknowledgments at the end of each disclosure form are not required by CFP Board’s Code of Ethics, but CFP certificants may wish to use them for their own purposes. Please note in Part II, section E of Form FPE, a CFP certificant shall not hold out as a fee-only financial planning practitioner if the CFP certificant receives commissions or other forms of economic benefit from related parties. (Refer also to Advisory Opinion 2003-1.) Also note that the disclosure of Part II, section B of Form OPS, is not required if the services contemplated by the client relationship have been completed. CFP certificants may use these forms, SEC Form ADV Part II, or a form of their own design or choosing as long as the required *Code of Ethics* disclosures are included in whatever form is used by the CFP certificant.

Compliance with the client disclosure requirements of the *Code of Ethics* is accomplished only when all material information relevant to the professional relationship (which includes everything required, pertinent and appropriate to the given client relationship) has been disclosed to the client or prospective client. Such disclosure should include, if material, (1) information about the financial condition of the CFP certificant and/or his or her firm which is reasonably likely to impair the ability of the CFP certificant to meet contractual commitments to the client and (2) any legal or disciplinary event relative to the CFP certificant

that is material to a client's or potential client's evaluation of the CFP certificant's integrity or ability to meet contractual commitments to the client. Mere completion of a suggested disclosure form does not, in and of itself, constitute full compliance with the *Code of Ethics* disclosure requirements.

A blank form of each, in addition to a sample of how the forms might look when they are filled in, is included and may be copied for your use. The forms can also be downloaded as Word documents from CFP Board's Web site at [www.CFP-Board.org](http://www.CFP-Board.org).

### **Sample CFP<sup>®</sup> Certificant Disclosure Form (FORM FPE)**

For Use in Financial Planning Engagements

*This disclosure form gives information about the CFP<sup>®</sup> certificant(s) and his/her/their business. This information has not been reviewed, approved or verified by CFP Board or by any governmental or self-regulatory authority. CFP Board does not warrant the specific qualifications of individuals certified to use its marks, nor does it warrant the correctness of advice or opinions provided.*

#### **PART I. GENERAL INFORMATION:**

(Code reference - Rule 401)

- A. Business affiliation:
  
- B. Address:
  
- C. Telephone number:
  
- D. Information required by all laws applicable to the relationship (e.g., if the CFP certificant is a registered investment adviser, the disclosure document required by laws applicable to such registration):

#### **PART II. MATERIAL INFORMATION RELEVANT TO THE PROFESSIONAL RELATIONSHIP**

(Written disclosures required to be provided prior to the engagement)

(Code reference - Rule 402)

- A. Basic philosophy of the CFP certificant (or firm) in working with clients:
  
  
- B. Philosophy, theory and/or principles of financial planning which will be utilized:
  
  
- C. Attached to this disclosure form, or summarized in the space provided below, are résumés of principals and employees of the CFP certificant's firm who are expected to provide financial planning services:
  - 1. Educational background:
  
  
  - 2. Professional/employment history:

3. Professional certifications and licenses held:
- D. Description of the financial planning services to be provided by the CFP® certificant:
- E. Conflict(s) of interest and source(s) of compensation:
1. Conflict(s) of interest:
  2. Source(s) of compensation:
  3. Contingencies or other aspects material to the certificant's compensation:
- F. Agency or employment relationships:
1. Material agency or employment relationships with third parties:
  2. Compensation resulting from such agency or employment relationships:
- G. Other material information relevant to the professional relationship:

### PART III. ADDITIONAL NOTIFICATION

- A. As a client or prospective client, you have the right to ask me, as a CFP® certificant, at any time for information about my compensation related to the services I provide you. I will communicate the requested information in reasonable detail as it relates to our financial planning engagement, including compensation derived from implementation. This disclosure of compensation:
1. May be expressed as an approximate dollar amount or percentage or as a range of dollar amounts or percentages;
  2. Shall be made at a time and to the extent that the requested information can be reasonably ascertained;
  3. Will be based on reasonable assumptions, with estimates clearly identified, and;
  4. Will be updated in a timely manner if actual compensation significantly differs from any estimates.

(Code reference - Rules 402 and 403)

- B. As a CFP certificant's personal financial planning client, you have the right to receive annually my current SEC Form ADV Part II or the current revision of the disclosure you received when our relationship began. (Code reference - Rule 404)

I hereby acknowledge receipt of this required disclosure.

\_\_\_\_\_/\_\_\_\_\_  
Client's Signature      Date                  Client's Signature      Date

**Sample CFP<sup>®</sup> Certificant Disclosure Form (FORM FPE) Sample Filled-In Form**  
For Use in Financial Planning Engagements

*This disclosure form gives information about the CFP<sup>®</sup> certificant(s) and his/her/their business. This information has not been reviewed, approved or verified by CFP Board or by any governmental or self-regulatory authority. CFP Board does not warrant the specific qualifications of individuals certified to use its marks, nor does it warrant the correctness of advice or opinions provided.*

**PART I. GENERAL INFORMATION:**

(Code reference - Rule 401)

- A. Business affiliation:
- B. Address:
- C. Telephone number:
- D. Information required by all laws applicable to the relationship (e.g., if the CFP certificant is a registered investment adviser, the disclosure document required by laws applicable to such registration):

**PART II. MATERIAL INFORMATION RELEVANT TO THE PROFESSIONAL RELATIONSHIP**

(Written disclosures required to be provided prior to the engagement)

(Code reference - Rule 402)

- A. Basic philosophy of the CFP certificant (or firm) in working with clients:  
*Our approach to personal financial planning is to obtain from you significant financial and other information including your attitudes, goals and objectives; to analyze the information obtained in order to develop alternatives for your consideration; to educate you about the implications of selecting a particular alternative; to implement the alternative selected by you; and to periodically update the plan adopted. It is our goal to become your chief financial adviser and to coordinate the efforts of your other advisers in your best interests. We want you to be educated about your own financial affairs and to take an active role in managing them.*
- B. Philosophy, theory and/or principles of financial planning which will be utilized:  
*Our philosophy of financial planning is to gather adequate reliable information about a client's personal financial situation; to determine the client's goals and objectives, time*

*horizon, and risk tolerance; to analyze all of the foregoing information in an objective manner and to develop recommendations for our clients based upon this thorough analysis and in the interest of rendering disinterested advice. In a personal financial planning engagement, we endeavor to consistently act in the interest of our client and to place his or her interest ahead of our own. Moreover, we believe that a client should be both informed and proactively involved in his or her personal financial affairs. Accordingly, we believe in holding frequent meetings with our clients to educate them about the financial planning process and their own financial situation.*

C. Attached to this disclosure form, or summarized in the space provided below, are résumés of principals and employees of the CFP® certificant's firm who are expected to provide financial planning services:

1. Educational background:

*John Doe:*

*Bachelor of Science degree in accounting from Hofstra University, 1971.*

*Master of Business Administration degree in Financial Services from Golden Gate University, 1975.*

2. Professional/employment history:

*John Doe:*

*Was employed as a stockbroker for DEF Brokerage for nearly ten years before becoming a partner in Comprehensive Financial Planning Services, Inc., in 1986 (see attached résumé).*

3. Professional certifications and licenses held:

*John Doe:*

*CERTIFIED FINANCIAL PLANNER™ practitioner*

*NASD Series 7 (General Securities) license - 1974*

*Life & Health insurance licenses - 1978, State of Arkansas*

D. Description of the financial planning services to be provided by the CFP certificant:

*Example 1:*

*This engagement is limited in scope to retirement planning only. Other types of personal financial planning services will not be performed by us, unless they directly affect your retirement plan, and you give us your express permission prior to performing such additional services.*

*Example 2:*

*You have expressed interest in asset management services. These services include:*

- Analysis of your current financial condition, goals and objectives, and development of a personal financial plan.*
- Design of an investment portfolio appropriate to your individual circumstances, needs, goals, risk tolerance, investment experience and time horizon.*
- Quarterly written reports on the status of your investment portfolio.*
- Two meetings each year to review and update your objectives and financial status and provide an evaluation of your investment portfolio.*

- *Ongoing monitoring of your investment portfolio.*
- *Recommendations involving investment repositioning and current opportunities for new investments.*
- *Availability of our professional staff to answer questions.*

E. Conflict(s) of interest and source(s) of compensation:

1. Conflict(s) of interest:

*Example 1:*

*John Doe represents Larry Peters, your business partner.*

*Example 2:*

*My broker/dealer permits me to sell only those securities products which it has approved.*

2. Source(s) of compensation:

*Example 1: Fees from clients*

*Example 2: Commissions from third parties*

3. Contingencies or other aspects material to the certificant's compensation:

*I will not receive a commission unless you purchase the financial products recommended by me.*

F. Agency or employment relationships:

1. Material agency or employment relationships with third parties:

*Life & Health Insurance Broker for DEF Insurance Company*

2. Compensation resulting from such agency or employment relationships:

*50% commissions on first year life insurance premiums and 0.25% commission upon annual renewal.*

G. Other material information relevant to the professional relationship:

*John Doe is licensed only for the sale of mutual funds and variable annuities.*

PART III. ADDITIONAL NOTIFICATION

A. As a client or prospective client, you have the right to ask me, as a CFP® certificant, at any time for information about my compensation related to the services I provide you. I will communicate the requested information in reasonable detail as it relates to our financial planning engagement, including compensation derived from implementation. This disclosure of compensation:

1. May be expressed as an approximate dollar amount or percentage or as a range of dollar amounts or percentages;
2. Shall be made at a time and to the extent that the requested information can be reasonably ascertained;
3. Will be based on reasonable assumptions, with estimates clearly identified, and;
4. Will be updated in a timely manner if actual compensation significantly differs from any estimates.

- (Code reference - Rules 402 and 403)
- B. As a CFP certificant's personal financial planning client, you have the right to receive annually my current SEC Form ADV Part II or the current revision of the disclosure you received when our relationship began. (Code reference - Rule 404)

I hereby acknowledge receipt of this required disclosure.

\_\_\_\_\_/\_\_\_\_\_  
Client's Signature    Date    Client's Signature    Date

**CFP® CERTIFICANT DISCLOSURE FORM (FORM OPS)**

For Use When Providing Other Professional Services

*This disclosure form gives information about the CFP® certificant(s) and his/her/their business. This information has not been reviewed, approved or verified by CFP Board or by any governmental or self-regulatory authority. CFP Board does not warrant the specific qualifications of individuals certified to use its marks, nor does it warrant the correctness of advice or opinions provided.*

**PART I. MATERIAL INFORMATION RELEVANT TO THE PROFESSIONAL RELATIONSHIP**

(Disclosures required to be provided at the time of entering into a client relationship)

(Code reference - Rule 401)

- A. Material information relevant to the professional relationship:
- B. Conflict(s) of interest:
- C. Information required by all laws applicable to the relationship (e.g., if the CFP certificant is a registered investment adviser, the disclosure document required by laws applicable to such registration):

**PART II. SUBSEQUENT DISCLOSURES**

(Disclosures required to be provided subsequent to entering into a client relationship)

A. Changes in any of the following information since entering into a client relationship:

(Code reference - Rule 401)

1. Business affiliation:
2. Address:
3. Telephone number:

4. Credentials:
5. Qualifications:
6. Licenses:
7. Compensation structure:
8. Agency relationships:
9. Scope of the CFP® certificant's authority in any agency relationship:

I hereby acknowledge receipt of this required disclosure.

	/		/	
Client's Signature	Date	Client's Signature	Date	

**CFP® Certificant Disclosure Form (FORM OPS) – Sample Filled-In Form**  
 For Use When Providing Other Professional Services

*This disclosure form gives information about the CFP® certificant(s) and his/her/their business. This information has not been reviewed, approved or verified by CFP Board or by any governmental or self-regulatory authority. CFP Board does not warrant the specific qualifications of individuals certified to use its marks, nor does it warrant the correctness of advice or opinions provided.*

**PART I. MATERIAL INFORMATION RELEVANT TO THE PROFESSIONAL RELATIONSHIP**  
 (Disclosures required to be provided at the time of entering into a client relationship)  
 (Code reference - Rule 401)

- A. Material information relevant to the professional relationship:  
*I am a sales representative for ABC Securities and I am licensed to sell general securities through that firm. These products include mutual funds, stocks, bonds and other types of securities.*

*My compensation is based solely upon the sale of securities. Should you choose to purchase a product through us, I will receive a commission payable by a third party.*

- B. Conflict(s) of interest:  
*John Doe owns a partnership interest in ABC Securities.*
- C. Information required by all laws applicable to the relationship (e.g., if the CFP certificant is a registered investment adviser, the disclosure document required by laws applicable to such registration):



*I am required by law to provide you with a copy of the most recent prospectus for any security that I recommend to you. I am required by law to provide you with a copy of the order confirmation for any securities transactions.*

PART II. SUBSEQUENT DISCLOSURES

(Disclosures required to be provided subsequent to entering into a client relationship)

A. Changes in any of the following information since entering into a client relationship:  
(Code reference - Rule 401)

1. Business affiliation:
2. Address:
3. Telephone number:
4. Credentials:
5. Qualifications:
6. Licenses:
7. Compensation structure:
8. Agency relationships:
9. Scope of the CFP® certificant's authority in any agency relationship:

I hereby acknowledge receipt of this required disclosure.

\_\_\_\_\_/\_\_\_\_\_  
Client's Signature    Date                      Client's Signature    Date

**Financial Planning <i>Practice Standards</i>**

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### **Statement of Purpose for *Financial Planning Practice Standards***

*Financial Planning Practice Standards* are developed and promulgated by Certified Financial Planner Board of Standards Inc. (CFP Board) for the ultimate benefit of consumers of financial planning services.

These *Practice Standards* are intended to:

- 1) Assure that the practice of financial planning by CERTIFIED FINANCIAL PLANNER™ professionals is based on established norms of practice;
- 2) Advance professionalism in financial planning; and
- 3) Enhance the value of the financial planning process.

### **History of *Practice Standards***

CFP Board is a professional regulatory organization founded in 1985 to benefit the public by establishing and enforcing education, examination, experience and ethics requirements for CFP® professionals. Through its certification process, CFP Board established fundamental criteria necessary for competency in the financial planning profession. Through its *Code of Ethics and Professional Responsibility (Code of Ethics)*, CFP Board has identified the ethics standards to which financial planning professionals should adhere.

In 1995, CFP Board established its Board of *Practice Standards* composed exclusively of CFP practitioners, to draft standards of practice for financial planning. The Board of *Practice Standards* drafted and revised the standards considering input from CFP certificants, consumers, regulators and other organizations. CFP Board's Board of Governors adopted the revised standards.

### **Description of *Practice Standards***

A *Practice Standard* establishes the level of professional practice that is expected of CFP Board designees engaged in financial planning.

*Practice Standards* apply to CFP Board designees in performing the tasks of financial planning regardless of the person's title, job position, type of employment or method of compensation. Compliance with the *Practice Standards* is mandatory for CFP Board designees, but all financial planning professionals are encouraged to use the *Practice Standards* when performing financial planning tasks or activities addressed by a *Practice Standard*.

Conduct inconsistent with a *Practice Standard* in and of itself is neither intended to give rise to a cause of action nor to create any presumption that a legal duty has been breached. The *Practice Standards* are designed to provide CFP Board designees a framework for the professional practice of financial planning. They are not designed to be a basis for legal liability.

*Practice Standards* are not intended to prescribe the services to be provided or step-by-step procedures for providing any particular service. Such procedures may be provided in practice aids developed by various financial planning organizations and other sources.

*Practice Standards* were developed for selected financial planning activities identified in a financial planner job analysis first conducted by CFP Board in 1987, updated in 1994 by CTB/McGraw-Hill, an independent consulting firm, and again in 1999 by the Chauncey Group. The financial planning process is defined as follows:

<b>Financial Planning Process</b>	<b>Related Practice Standard</b>
1. Establishing and defining the relationship with a client	100-1 Defining the Scope of the Engagement
2. Gathering client data	200-1 Determining a Client’s Personal and Financial Goals, Needs and Priorities
	200-2 Obtaining Quantitative Information and Documents
3. Analyzing and evaluating the client’s financial status	300-1 Analyzing and Evaluating the Client’s Information
4. Developing and presenting financial planning recommendations	400-1 Identifying and Evaluating Financial Planning Alternative(s)
	400-2 Developing the Financial Planning Recommendation(s)
	400-3 Presenting the Financial Planning Recommendation(s)
5. Implementing the financial planning recommendations	500-1 Agreeing on Implementation Responsibilities
	500-2 Selecting Products and Services for Implementation
6. Monitoring	600-1 Defining Monitoring Responsibilities

**Format of *Practice Standards***

Each *Practice Standard* is a statement regarding an element of the financial planning process. It is followed by an explanation of the Standard, its relationship to the *Code of Ethics*, and its expected impact on the public, the profession and the practitioner.

The Explanation accompanying each *Practice Standard* explains and illustrates the meaning and purpose of the *Practice Standard*. The text of each *Practice Standard* is authoritative and directive. The related Explanation is a guide to interpretation and application of the *Practice Standard* based, where indicated, on a standard of reasonableness, a recurring theme throughout the *Practice Standards*. The

Explanation is not intended to establish a professional standard or duty beyond what is contained in the *Practice Standard* itself.

### **Compliance with *Practice Standards***

The practice of financial planning consistent with these *Practice Standards* is required for CFP Board designees. Enforcement is based on the disciplinary rules and procedures established by CFP Board and administered by CFP Board's Board of Professional Review and Board of Appeals.

### ***Practice Standards* 100 Series**

#### **Establishing and Defining the Relationship with the Client**

##### **100-1: Defining the Scope of the Engagement**

*The financial planning practitioner and the client shall mutually define the scope of the engagement before any financial planning service is provided.*

#### **Explanation of this *Practice Standard***

Prior to providing any financial planning service, the financial planning practitioner and the client shall mutually define the scope of the engagement. The process of "mutually-defining" is essential in determining what activities may be necessary to proceed with the engagement.

This process is accomplished in financial planning engagements by:

- Identifying the service(s) to be provided;
- Disclosing the practitioner's material conflict(s) of interest;
- Disclosing the practitioner's compensation arrangement(s);
- Determining the client's and the practitioner's responsibilities;
- Establishing the duration of the engagement; and
- Providing any additional information necessary to define or limit the scope.
- 

The scope of the engagement may include one or more financial planning subject areas. It is acceptable to mutually define engagements in which the scope is limited to specific activities. Mutually defining the scope of the engagement serves to establish realistic expectations for both the client and the practitioner.

This *Practice Standard* does not require the scope of the engagement to be in writing. However, as noted in the "Relationship" section, which follows, there may be certain disclosures that are required to be in writing.

As the relationship proceeds, the scope may change by mutual agreement.

This *Practice Standard* shall not be considered alone, but in conjunction with all other *Practice Standards*.

#### **Effective Date**

Original version, January 1, 1999. Updated version, January 1, 2002.

#### **Relationship of this *Practice Standard* to CFP Board's *Code of Ethics and Professional Responsibility***

This Practice Standard relates to CFP Board's *Code of Ethics and Professional Responsibility (Code of Ethics)* through the *Code of Ethics'* Principle 4 – Fairness and Rules 402; and Principle 7 – Diligence and Rule 702.

Principle 4 states “A CFP Board designee shall perform professional services in a manner that is fair and reasonable to clients....” Although, as stated earlier, there is no requirement that the scope of the engagement be in writing, Rule 402 in the *Code of Ethics* requires a financial planning practitioner to make “timely written disclosure of all material information relative to the professional relationship. In all circumstances and prior to the engagement, a CFP Board designee shall, in writing: (a) Disclose conflict(s) of interest and sources of compensation; and (b) Inform the client or prospective client of his/her right to ask at any time for information about the compensation of the CFP Board designee.”

Principle 7 states “A CFP Board designee shall act diligently in providing professional services.” Rule 702 requires that financial planning practitioners enter into an engagement only after obtaining sufficient information to satisfy that “the relationship is warranted by the individual's needs and objectives; and the CFP Board designee has the ability to either provide requisite competent services or to involve other professionals who can provide such services.”

### **Anticipated Impact of this *Practice Standard***

#### **Upon the Public**

The public is served when the relationship is based upon a mutual understanding of the engagement. Clarity of the scope of the engagement enhances the likelihood of achieving client expectations.

#### **Upon the Financial Planning Profession**

The profession benefits when clients are satisfied. This is more likely to take place when clients have expectations of the process, which are both realistic and clear, before services are provided.

#### **Upon the Financial Planning Practitioner**

A mutually defined scope of the engagement provides a framework for the financial planning process by focusing both the client and the practitioner on the agreed upon tasks. This enhances the potential for positive results.

### **<i>Practice Standards</i> 200 Series**

#### **Gathering Client Data**

##### **200-1: Determining a Client's Personal and Financial Goals, Needs and Priorities**

*The financial planning practitioner and the client shall mutually define the client's personal and financial goals, needs and priorities that are relevant to the scope of the engagement before any recommendation is made and/or implemented.*

#### **Explanation of this *Practice Standard***

Prior to making recommendations to the client, the financial planning practitioner and the client shall mutually define the client's personal and financial goals, needs and priorities. In order to arrive at such a definition, the practitioner will need to explore the client's values, attitudes, expectations, and time horizons as they affect the client's goals, needs and priorities. The process of “mutually-defining” is essential in determining what activities may be necessary to proceed with the client engagement. Personal values and attitudes shape the client's goals and objectives and the priority placed on them. Accordingly, these goals

and objectives must be consistent with the client's values and attitudes in order for the client to make the commitment necessary to accomplish them.

Goals and objectives provide focus, purpose, vision and direction for the financial planning process. It is important to determine clear, and measurable objectives that are relevant to the scope of the engagement. The role of the practitioner is to facilitate the goal-setting process in order to clarify, with the client, goals and objectives. When appropriate, the practitioner shall try to assist clients in recognizing the implications of unrealistic goals and objectives.

This *Practice Standard* addresses only the tasks of determining the client's personal and financial goals, needs and priorities; assessing the client's values, attitudes and expectations; and determining the client's time horizons. These areas are subjective and the practitioner's interpretation is limited by what the client reveals.

This *Practice Standard* shall not be considered alone, but in conjunction with all other *Practice Standards*.

#### **Effective Date**

Original version, January 1, 1999. Updated version, January 1, 2002.

#### **Relationship of this *Practice Standard* to CFP Board's *Code of Ethics and Professional Responsibility***

This Practice Standard relates to CFP Board's *Code of Ethics and Professional Responsibility (Code of Ethics)* through the *Code of Ethics*' Principle 7 – Diligence, and Rules 701 through 703. Rule 701 states that “A CFP Board designee shall provide services diligently.” Rule 702 requires a financial planning practitioner to “enter into an engagement only after securing sufficient information to satisfy the CFP Board designee that ... the relationship is warranted by the individual's needs and objectives...” In addition, Rule 703 requires a financial planning practitioner to “make and/or implement only recommendations which are suitable for the client.”

#### **Anticipated Impact of this *Practice Standard* Upon the Public**

The public is served when the relationship is based upon mutually defined goals, needs and priorities. This Practice Standard reinforces the practice of putting the client's interests first which is intended to increase the likelihood of achieving the client's goals and objectives.

#### **Upon the Financial Planning Profession**

Compliance with this Practice Standard emphasizes to the public that the client's goals, needs and priorities are the focus of the financial planning process. This encourages the public to seek out the services of a financial planning practitioner who uses such an approach.

#### **Upon the Financial Planning Practitioner**

The client's goals, needs and priorities help determine the direction of the financial planning process. This focuses the practitioner on the specific tasks that need to be accomplished. Ultimately, this will facilitate the development of appropriate recommendations.

#### **200-2: Obtaining Quantitative Information and Documents**

*The financial planning practitioner shall obtain sufficient quantitative information and documents about a client relevant to the scope of the engagement before any recommendation is made and/or implemented.*

**Explanation of this *Practice Standard***

Prior to making recommendations to the client and depending on the scope of the engagement, the financial planning practitioner shall determine what quantitative information and documents are sufficient and relevant.

The practitioner shall obtain sufficient and relevant quantitative information and documents pertaining to the client's financial resources, obligations and personal situation. This information may be obtained directly from the client or other sources such as interview(s), questionnaire(s), client records and documents.

The practitioner shall communicate to the client a reliance on the completeness and accuracy of the information provided and that incomplete or inaccurate information will impact conclusions and recommendations.

If the practitioner is unable to obtain sufficient and relevant quantitative information and documents to form a basis for recommendations, the practitioner shall either:

- A. Restrict the scope of the engagement to those matters for which sufficient and relevant information is available; or
- B. Terminate the engagement.

The practitioner shall communicate to the client any limitations on the scope of the engagement, as well as the fact that this limitation could affect the conclusions and recommendations.

This *Practice Standard* shall not be considered alone, but in conjunction with all other *Practice Standards*.

**Effective Date**

Original version, January 1, 1999. Updated version, January 1, 2002.

**Relationship of this *Practice Standard* to CFP Board's *Code of Ethics and Professional Responsibility***

This Practice Standard relates to CFP Board's *Code of Ethics and Professional Responsibility (Code of Ethics)* through the *Code of Ethics*' Principle 7 – Diligence and Rules 701 through 703. Rule 701 states “A CFP Board designee shall provide services diligently.” Rule 702 requires a financial planning practitioner to “enter into an engagement only after securing sufficient information to satisfy the CFP Board designee that ... the relationship is warranted by the individual's needs and objectives...” In addition, Rule 703 requires a financial planning practitioner to “make and/or implement only recommendations which are suitable for the client.”

**Anticipated Impact of this *Practice Standard*  
Upon the Public**

The public is served when financial planning recommendations are based upon sufficient and relevant quantitative information and documents. This Practice Standard is intended to increase the likelihood of achieving the client's goals and objectives.

### **Upon the Financial Planning Profession**

The financial planning process requires that recommendations be made based on sufficient and relevant quantitative data. Therefore, compliance with this Practice Standard encourages the public to seek financial planning practitioners who use the financial planning process.

### **Upon the Financial Planning Practitioner**

Sufficient and relevant quantitative information and documents provide the foundation for analysis. Ultimately, this will facilitate the development of appropriate recommendations.

### **<i>Practice Standards</i> 300 Series**

#### **Analyzing and Evaluating the Client's Financial Status**

##### **300-1: Analyzing and Evaluating the Client's Information**

*A financial planning practitioner shall analyze the information to gain an understanding of the client's financial situation and then evaluate to what extent the client's goals, needs and priorities can be met by the client's resources and current course of action.*

#### **Explanation of this Practice Standard**

Prior to making recommendations to a client, it is necessary for the financial planning practitioner to assess the client's financial situation and to determine the likelihood of reaching the stated objectives by continuing present activities.

The practitioner will utilize client-specified, mutually agreed upon, and/or other reasonable assumptions. Both personal and economic assumptions must be considered in this step of the process. These assumptions may include, but are not limited to, the following:

- Personal assumptions, such as: retirement age(s), life expectancy(ies), income needs, risk factors, time horizon and special needs; and
- Economic assumptions, such as: inflation rates, tax rates and investment returns.

Analysis and evaluation are critical to the financial planning process. These activities form the foundation for determining strengths and weaknesses of the client's financial situation and current course of action. These activities may also identify other issues that should be addressed. As a result, it may be appropriate to amend the scope of the engagement and/or to obtain additional information.

#### **Effective Date**

Original version, January 1, 2000. Updated version, January 1, 2002.

#### **Relationship of this Practice Standard to CFP Board's Code of Ethics and Professional Responsibility**

This Practice Standard relates to CFP Board's Code of Ethics and Professional Responsibility (Code of Ethics) through the Code of Ethics' Principle 2 - Objectivity and Rules 201 and 202; Principle 3 - Competence and Rule 302, and Principle 7 - Diligence and Rule 701.

Principle 2 states "A CFP Board designee shall be objective in providing professional services to clients." Rule 201 states "A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services" and Rule 202 states "A financial planning practitioner shall act in the interest of the client."



Principle 3 states “A CFP Board designee shall provide services to clients competently and maintain the necessary knowledge and skill to continue to do so in those areas in which the designee is engaged.” Rule 302 states “A CFP Board designee shall offer advice only in those areas in which the CFP Board designee has competence. In areas where the CFP Board designee is not professionally competent, the CFP Board designee shall seek the counsel of qualified individuals and/or refer clients to such parties.”

Under Principle 7, Rule 701 states “A CFP Board designee shall provide services diligently.”

### **Anticipated Impact of this *Practice Standard***

#### **Upon the Public**

The public is served when objective analysis and evaluation by a financial planning practitioner results in the client’s heightened awareness of specific financial planning issues. This Practice Standard is intended to increase the likelihood of achieving the client’s goals and objectives.

#### **Upon the Financial Planning Profession**

Objective analysis and evaluation enhances the public’s recognition of and appreciation for the financial planning process and increases the confidence in financial planning practitioners who provide this service.

#### **Upon the Financial Planning Practitioner**

Analysis and evaluation helps the practitioner establish the foundation from which recommendations can be made that are specific to the client’s financial planning goals, needs and priorities.

### **<i>Practice Standards</i> 400 Series**

#### **Developing and Presenting the Financial Planning Recommendation(s)**

##### **Preface to the 400 Series**

The 400 Series, “Developing and Presenting the Financial Planning Recommendation(s),” represents the very heart of the financial planning process. It is at this point that the financial planning practitioner, using both science and art, formulates the recommendations designed to achieve the client’s goals, needs and priorities. Experienced financial planning practitioners may view this process as one action or task. However, in reality, it is a series of distinct but interrelated tasks.

These three <i>Practice Standards</i> emphasize the distinction among the several tasks which are part of this process. These <i>Practice Standards</i> can be described as, “What is Possible?,” “What is Recommended?” and “How is it Presented?” The first two <i>Practice Standards</i> involve the creative thought, the analysis, and the professional judgment of the practitioner, which are often performed outside the presence of the client. First, the practitioner identifies and considers the various alternatives, including continuing the present course of action (*Practice Standard* 400-1). Second, the practitioner develops the recommendation(s) from among the selected alternatives (*Practice Standard* 400-2). Once the practitioner has determined what to recommend, the final task is to communicate the recommendation(s) to the client (*Practice Standard* 400-3).

The three <i>Practice Standards</i> that comprise the 400 series should not be considered alone, but in conjunction with all other <i>Practice Standards</i>.

#### **400-1: Identifying and Evaluating Financial Planning Alternative(s)**

*The financial planning practitioner shall consider sufficient and relevant alternatives to the client’s current course of action in an effort to reasonably meet the client’s goals, needs and priorities.*

### **Explanation of this *Practice Standard***

After analyzing the client's current situation (*Practice Standard* 300-1) and prior to developing and presenting the recommendation(s) (*Practice Standards* 400-2 and 400-3) the financial planning practitioner shall identify alternative actions. The practitioner shall evaluate the effectiveness of such actions in reasonably meeting the client's goals, needs and priorities.

This evaluation may involve, but is not limited to, considering multiple assumptions, conducting research or consulting with other professionals. This process may result in a single alternative, multiple alternatives or no alternative to the client's current course of action.

In considering alternative actions, the practitioner shall recognize and, as appropriate, take into account his or her legal and/or regulatory limitations and level of competency in properly addressing each of the client's financial planning issues.

More than one alternative may reasonably meet the client's goals, needs and priorities. Alternatives identified by the practitioner may differ from those of other practitioners or advisers, illustrating the subjective nature of exercising professional judgment.

### **Effective Date**

Original version, January 1, 2001. Updated version, January 1, 2002.

### **Relationship of this *Practice Standard* to CFP Board's *Code of Ethics and Professional Responsibility***

This *Practice Standard* relates to CFP Board's *Code of Ethics and Professional Responsibility (Code of Ethics)* through the *Code of Ethics*' Principle 2 – Objectivity and Rules 201 and 202; Principle 3 – Competence and Rule 302; Principle 6 – Professionalism and Rule 609; and Principle 7 – Diligence and Rules 701 and 703.

Principle 2 states "A CFP Board designee shall be objective in providing professional services to clients." Rule 201 states "A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services." Rule 202 states "A financial planning practitioner shall act in the interest of the client."

Principle 3 states "A CFP Board designee shall provide services to clients competently and maintain the necessary knowledge and skill to continue to do so in those areas in which the designee is engaged." Rule 302 states "A CFP Board designee shall offer advice only in those areas in which the CFP Board designee has competence. In areas where the CFP Board designee is not professionally competent, the CFP Board designee shall seek the counsel of qualified individuals and/or refer clients to such parties."

Principle 6 states "A CFP Board designee's conduct in all matters shall reflect credit upon the profession." Rule 609 states "A CFP Board designee shall not practice any other profession or offer to provide such services unless the CFP Board designee is qualified ... and is licensed as required by state law."

Principle 7 states "A CFP Board designee shall act diligently in providing professional services." Rule 701 states "A CFP Board designee shall provide services diligently." Rule 703 states "A financial planner practitioner shall make and/or implement only recommendations which are suitable for the client."

#### **400-2: Developing the Financial Planning Recommendation(s)g the Financial Planning**

*The financial planning practitioner shall develop the recommendation(s) based on the selected alternative(s) and the current course of action in an effort to reasonably meet the client's goals, needs and priorities.*

#### **Explanation of this Practice Standard**

After identifying and evaluating the alternative(s) and the client's current course of action, the practitioner shall develop the recommendation(s) expected to reasonably meet the client's goals, needs and priorities. A recommendation may be an independent action or a combination of actions which may need to be implemented collectively.

The recommendation(s) shall be consistent with and will be directly affected by the following:

- Mutually defined scope of the engagement;
- Mutually defined client goals, needs and priorities;
- Quantitative data provided by the client;
- Personal and economic assumptions;
- Practitioner's analysis and evaluation of client's current situation; and
- Alternative(s) selected by the practitioner.
- 

A recommendation may be to continue the current course of action. If a change is recommended, it may be specific and/or detailed or provide a general direction. In some instances, it may be necessary for the practitioner to recommend that the client modify a goal.

The recommendations developed by the practitioner may differ from those of other practitioners or advisers, yet each may reasonably meet the client's goals, needs and priorities.

#### **Effective Date**

Original version, January 1, 2001. Updated version, January 1, 2002.

#### **Relationship of this Practice Standard to CFP Board's Code of Ethics and Professional Responsibility**

This *Practice Standard* relates to CFP Board's *Code of Ethics and Professional Responsibility (Code of Ethics)* through the *Code of Ethics'* Principle 2 – Objectivity and Rules 201 and 202; Principle 3 – Competence and Rule 302; Principle 6 – Professionalism and Rule 609; and Principle 7 – Diligence and Rules 701, 703 and 704.

Principle 2 states “A CFP Board designee shall be objective in providing professional services to clients.” Rule 201 states “A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services.” Rule 202 states “A financial planning practitioner shall act in the interest of the client.”

Principle 3 states “A CFP Board designee shall provide services to clients competently and maintain the necessary knowledge and skill to continue to do so in those areas in which the designee is engaged.” Rule 302 states “A CFP Board designee shall offer advice only in those areas in which the CFP Board designee has competence. In areas where the CFP Board designee is not professionally competent, the CFP Board designee shall seek the counsel of qualified individuals and/or refer clients to such parties.”

Principle 6 states “A CFP Board designee’s conduct in all matters shall reflect credit upon the profession.” Rule 609 states “A CFP Board designee shall not practice any other profession or offer to provide such services unless the CFP Board designee is qualified ... and is licensed as required by state law.”

Principle 7 states “A CFP Board designee shall act diligently in providing professional services.” Rule 701 states “A CFP Board designee shall provide services diligently.” Rule 703 states “A financial planner practitioner shall make and/or implement only recommendations which are suitable for the client.” Rule 704 states “... a CFP Board designee shall make a reasonable investigation regarding the financial products recommended to clients. Such an investigation may be made by the CFP Board designee or by others provided the CFP Board designee acts reasonably in relying upon such investigation.”

### **400-3: Presenting the Financial Planning Recommendation(s)**

*The financial planning practitioner shall communicate the recommendation(s) in a manner and to an extent reasonably necessary to assist the client in making an informed decision.*

#### **Explanation of this Practice Standard**

When presenting a recommendation, the practitioner shall make a reasonable effort to assist the client in understanding the client’s current situation, the recommendation itself, and its impact on the ability to meet the client’s goals, needs and priorities. In doing so, the practitioner shall avoid presenting the practitioner’s opinion as fact.

The practitioner shall communicate the factors critical to the client’s understanding of the recommendations. These factors may include but are not limited to material:

- Personal and economic assumptions;
- Interdependence of recommendations;
- Advantages and disadvantages;
- Risks; and/or
- Time sensitivity.

The practitioner should indicate that even though the recommendations may meet the client’s goals, needs and priorities, changes in personal and economic conditions could alter the intended outcome. Changes may include, but are not limited to: legislative, family status, career, investment performance and/or health. If there are conflicts of interest that have not been previously disclosed, such conflicts and how they may impact the recommendations should be addressed at this time.

Presenting recommendations provides the practitioner an opportunity to further assess whether the recommendations meet client expectations, whether the client is willing to act on the recommendations, and whether modifications are necessary.

#### **Effective Date**

Original version, January 1, 2001. Updated version, January 1, 2002.

#### **Relationship of this Practice Standard to CFP Board’s Code of Ethics and Professional Responsibility**

This Practice Standard relates to CFP Board’s Code of Ethics and Professional Responsibility (Code of Ethics) through the Code of Ethics’ Principle 1 – Integrity and Rule 102; Principle 2 – Objectivity and Rule 201; and Principle 6 – Professionalism and Rule 607.

Principle 1 states “A CFP Board designee shall offer and provide professional services with integrity.” Rule 102 states “... a CFP Board designee shall not ... knowingly make a false or misleading statement to a client....”

Principle 2 states “A CFP Board designee shall be objective in providing professional services to clients.” Rule 201 states “A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services.”

Principle 6 states “A CFP Board designee’s conduct in all matters shall reflect credit upon the profession.” Rule 607 states “A CFP Board designee shall not engage in any conduct which reflects adversely on his or her integrity or fitness as a CFP Board designee....”

### **Anticipated Impact of these *Practice Standards***

#### **Upon the Public**

The public is served when strategies and objective recommendations are developed and are communicated clearly to specifically meet each client’s individual financial planning goals, needs and priorities.

#### **Upon the Financial Planning Profession**

A commitment to a systematic process for the development and presentation of the financial planning recommendations advances the financial planning profession. Development of customized strategies and recommendations enhances the public’s perception of the objectivity and value of the financial planning process. The public will seek out those professionals who embrace these *Practice Standards*.

#### **Upon the Financial Planning Practitioner**

Customizing strategies and recommendations forms a foundation to communicate meaningful and responsive solutions. This increases the likelihood that a client will accept the recommendations and act upon them. These actions will contribute to client satisfaction.

### ***Practice Standards* 500 Series**

#### **Implementing the Financial Planning Recommendation(s):**

##### **500-1: Agreeing on Implementation Responsibilities**

*The financial planning practitioner and the client shall mutually agree on the implementation responsibilities consistent with the scope of the engagement.*

#### **Explanation of this *Practice Standard***

The client is responsible for accepting or rejecting recommendations and for retaining and/or delegating implementation responsibilities. The financial planning practitioner and the client shall mutually agree on the services, if any, to be provided by the practitioner. The scope of the engagement, as originally defined, may need to be modified.

The practitioner’s responsibilities may include, but are not limited to the following:

- Identifying activities necessary for implementation;
- Determining division of activities between the practitioner and the client;
- Referring to other professionals;
- Coordinating with other professionals;
- Sharing of information as authorized; and

- Selecting and securing products and/or services.

If there are conflicts of interest, sources of compensation or material relationships with other professionals or advisers that have not been previously disclosed, such conflicts, sources or relationships shall be disclosed at this time.

When referring the client to other professionals or advisers, the financial planning practitioner shall indicate the basis on which the practitioner believes the other professional or adviser may be qualified.

If the practitioner is engaged by the client to provide only implementation activities, the scope of the engagement shall be mutually defined, orally or in writing, in accordance with Practice Standard 100-1.

This scope may include such matters as the extent to which the practitioner will rely on information, analysis or recommendations provided by others.

### **Effective Date**

January 1, 2002.

### **Relationship of this Practice Standard to CFP Board's Code of Ethics and Professional Responsibility**

This *Practice Standard* relates to CFP Board's *Code of Ethics and Professional Responsibility (Code of Ethics)* through the *Code of Ethics'* Principle 3 – Competence and Rule 302; Principle 4 – Fairness and Rules 402; Principle 6 – Professionalism and Rules 606 and 609; and Principle 7 – Diligence and Rule 701.

Principle 3 states “A CFP Board designee shall provide services to clients competently and maintain the necessary knowledge and skill to continue to do so in those areas in which the designee is engaged.” Rule 302 states “A CFP Board designee shall offer advice only in those areas in which the CFP Board designee has competence. In areas where the CFP Board designee is not professionally competent, the CFP Board designee shall seek the counsel of qualified individuals and/or refer clients to such parties.”

Principle 4 states “A CFP Board designee shall perform professional services in a manner that is fair and reasonable to clients ... and shall disclose conflict(s) of interest in providing such services.” Rule 402 states “A CFP Board designee in a financial planning engagement shall make timely written disclosure of all material information relative to the professional relationship. In all circumstances and prior to the engagement, a CFP Board designee shall, in writing: (a) Disclose conflict(s) of interest and sources of compensation; and (b) Inform the client or prospective client of his/her right to ask at any time for information about the compensation of the CFP Board designee.”

Principle 6 states “A CFP Board designee's conduct in all matters shall reflect credit upon the profession.” Rule 606 states “... a CFP Board designee shall perform services in accordance with: (a) Applicable laws, rules, and regulations of governmental agencies and other applicable authorities...” Rule 609 states “A CFP Board designee shall not practice any other profession or offer to provide such services unless the CFP Board designee is qualified ... and is licensed as required by state law.”

Under Principle 7, Rule 701 states “A CFP Board designee shall provide services diligently.”

### **500-2: Selecting Products and Services for Implementation**

*The financial planning practitioner shall select appropriate products and services that are consistent with the client's goals, needs and priorities.*

**Explanation of this *Practice Standard***

The financial planning practitioner shall investigate products or services that reasonably address the client's needs. The products or services selected to implement the recommendation(s) must be suitable to the client's financial situation and consistent with the client's goals, needs and priorities.

The financial planning practitioner uses professional judgment in selecting the products and services that are in the client's interest. Professional judgment incorporates both qualitative and quantitative information.

Products and services selected by the practitioner may differ from those of other practitioners or advisers.

More than one product or service may exist that can reasonably meet the client's goals, needs and priorities.

The practitioner shall make all disclosures required by applicable regulations.

**Effective Date**

January 1, 2002.

**Relationship of this *Practice Standard* to CFP Board's *Code of Ethics and Professional Responsibility***

This *Practice Standard* relates to CFP Board's *Code of Ethics and Professional Responsibility (Code of Ethics)* through the Code of Ethics' Principle 2 – Objectivity and Rule 202; Principle 4 – Fairness and Rules 402 and 409; Principle 6 – Professionalism and Rule 606; and Principle 7 – Diligence and Rules 701, 703 and 704.

Principle 2 states "A CFP Board designee shall be objective in providing professional services to clients." Rule 202 states "A financial planning practitioner shall act in the interest of the client."

Principle 4 states "A CFP Board designee shall perform professional services in a manner that is fair and reasonable to clients ... and shall disclose conflict(s) of interest in providing such services." Rule 402 states "A CFP Board designee in a financial planning engagement shall make timely written disclosure of all material information relative to the professional relationship. In all circumstances and prior to the engagement, a CFP Board designee shall, in writing: (a) Disclose conflict(s) of interest and sources of compensation; and (b) Inform the client or prospective client of his/her right to ask at any time for information about the compensation of the CFP Board designee." Rule 409 states "If a CFP Board designee enters into a personal business transaction with a client, separate from regular professional services provided to that client ... the CFP Board designee shall disclose, in writing, the risks of the transaction, conflict(s) of interest of the CFP Board designee, and other relevant information ... necessary to make the transaction fair to the client."

Principle 6 states "A CFP Board designee's conduct in all matters shall reflect credit upon the profession." Rule 606 states "In all professional activities a CFP Board designee shall perform services in accordance with: (a) Applicable laws, rules and regulations of governmental agencies and other applicable authorities; and (b) Applicable rules, regulations and other established policies of CFP Board."

Principle 7 states "A CFP Board designee shall act diligently in providing professional services." Rule 701 states "A CFP Board designee shall provide services diligently." Rule 703 states "A financial planning practitioner shall make and/or implement only recommendations which are suitable for the client." Rule

704 states "... a CFP Board designee shall make a reasonable investigation regarding the financial products recommended to clients."

**Anticipated Impact of these *Practice Standards***

**Upon the Public**

The public is served when the appropriate products and services are used to implement recommendations; thus increasing the likelihood that the client's goals will be achieved.

**Upon the Financial Planning Profession**

Over time, implementing recommendations using appropriate products and services for the client increases the credibility of the profession in the eyes of the public.

**Upon the Financial Planning Practitioner**

It is for the long-term benefit of the practitioner to put the interest of the client before that of others in the selection of products and services.

***Practice Standards* 600 Series**

**Monitoring**

**600-1: Defining Monitoring Responsibilities**

*The financial planning practitioner and client shall mutually define monitoring responsibilities.*

**Explanation of this *Practice Standard***

The purpose of this *Practice Standard* is to clarify the role, if any, of the practitioner in the monitoring process. By clarifying this responsibility, the client's expectations are more likely to be in alignment with the level of monitoring services which the practitioner intends to provide.

If engaged for monitoring services, the practitioner shall make a reasonable effort to define and communicate to the client those monitoring activities the practitioner is able and willing to provide. By explaining what is to be monitored, the frequency of monitoring and the communication method, the client is more likely to understand the monitoring service to be provided by the practitioner.

The monitoring process may reveal the need to reinitiate steps of the financial planning process. The current scope of the engagement may need to be modified.

**Effective Date**

January 1, 2002.

**Relationship of this *Practice Standard* to CFP Board's *Code of Ethics and Professional Responsibility***

This *Practice Standard* relates to CFP Board's *Code of Ethics and Professional Responsibility (Code of Ethics)* through the *Code of Ethics*' Principle 7 – Diligence and Rule 702.

Principle 7 states "A CFP Board designee shall act diligently in providing professional services." Rule 702 requires that financial planning practitioners enter into an engagement only after obtaining sufficient information to satisfy that "the relationship is warranted by the individual's goals and objectives; and the CFP Board designee has the ability to either provide requisite competent services or to involve other professionals who can provide such services."



## **Anticipated Impact of this *Practice Standard***

### **Upon the Public**

The public is served when the practitioner and client have similar perceptions and a mutual understanding about the responsibilities for monitoring the recommendation(s).

### **Upon the Financial Planning Profession**

The profession benefits when clients are satisfied. Clients are more likely to be satisfied when expectations of the monitoring process are both realistic and clear. This *Practice Standard* promotes awareness that financial planning is a dynamic process rather than a single action.

### **Upon the Financial Planning Practitioner**

A mutually defined agreement of the monitoring responsibilities increases the potential for client satisfaction and clarifies the practitioner's responsibilities.

## **Disciplinary Rules and Procedures**

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Anonymous Case Histories

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## **Disciplinary Rules and Procedures**

### **Article 1: Introduction**

Certified Financial Planner Board of Standards Inc. (CFP Board) has adopted a *Code of Ethics and Professional Responsibility (Code of Ethics)* and *Financial Planning <i>Practice Standards</i>* (<i>Practice Standards</i>) which establish the expected level of professional conduct and practice for CFP Board designees. The *Code of Ethics* and <i>Practice Standards</i> may be amended from time to time, with revisions submitted to the public for comment before final adoption by CFP Board. To promote and maintain the integrity of its , CFP<sup>®</sup> and CERTIFIED FINANCIAL PLANNER<sup>™</sup> certification marks for the benefit of the clients and potential clients of CFP Board designees, CFP Board has the ability to enforce the provisions of the *Code of Ethics* and <i>Practice Standards</i>. Adherence to the *Code of Ethics* by CFP Board designees or to <i>Practice Standards</i> by CFP<sup>®</sup> practitioners is required, with the potential for CFP Board sanctions against those who violate the regulations proscribed in these documents. CFP Board will follow the disciplinary rules and procedures set forth below when enforcing the *Code of Ethics* and <i>Practice Standards</i>.

### **Article 2: Board of Professional Review**

#### *2.1 Function and Jurisdiction of the Board of Professional Review*

CFP Board's Board of Professional Review (referred to herein as the "Board"), formed pursuant to and governed by the bylaws of CFP Board, is charged with the duty of investigating, reviewing and taking appropriate action with respect to alleged violations of the *Code of Ethics* and alleged non-compliance with the <i>Practice Standards</i> as promulgated by CFP Board's Board of Governors and shall have original jurisdiction over all such disciplinary matters and procedures.

#### *2.2 Powers and Duties of the Board*

The Board shall be authorized and empowered to:

- A. Enlist the assistance of CFP certificants to assist with investigations, or serve temporarily on a Hearing Panel;
- B. Periodically report to CFP Board's Board of Governors on the operation of the Board;
- C. Adopt amendments to these *Disciplinary Rules and Procedures*, subject to review and approval of CFP Board's Board of Governors; and
- D. Adopt such other rules or procedures as may be necessary or appropriate to govern the internal operations of the Board.

#### *2.3 Panels and Staff Counsel*

With respect to each individual complaint, the Chair of the Board may, or may direct CFP Board Staff Counsel to, divide the Board into two panels consisting of an Inquiry Panel and a Hearing Panel and designate a Chair for each Panel. No member of an Inquiry Panel shall act as a member of the Hearing Panel on the same matter. In the event a matter is referred to the Inquiry Panel for inquiry, if subsequently referred for hearing, such matter shall be heard by the Hearing Panel unless otherwise exempted from such requirement by any other provision of these Rules.

### *2.3.1 Inquiry Panel*

An Inquiry Panel shall, with appropriate assistance from those members of CFP Board staff who are charged with the principal responsibility of investigating and prosecuting alleged violations of the Code of Ethics (referred to herein as the “CFP Board Staff Counsel”), investigate any alleged grounds for discipline. Following an investigation, the Inquiry Panel shall proceed as provided in Article 6 of these Procedures. An Inquiry Panel shall consist of at least two persons. At least one member of every Inquiry Panel shall be a member of the Board and at least two members shall be CFP® certificants. One member of each Inquiry Panel shall serve as Chair of that inquiry.

### *2.3.2 Hearing Panel*

The Hearing Panel may consist of members of the Board who have been designated Hearing Panel members, enlisted CFP certificants and up to one individual who is not a CFP certificant. A Panel shall consist of at least three persons. At least one member of every Hearing Panel shall be a member of the Board and at least two members of every Hearing Panel shall be CFP certificants. One member of each Hearing Panel shall serve as Chair of that hearing. The Chair shall rule on all motions, objections and other matters presented in the course of the hearing.

### *2.3.3 Disqualification*

Board members shall refrain from participating in any proceeding in which they, a member of their immediate family or a member of their firm have any interest or where such participation otherwise would involve a conflict of interest or the appearance of impropriety.

### *2.3.4 Staff Counsel*

CFP Board Staff Counsel may be either full- or part-time employees of CFP Board or may be non-employees who are attorneys, accountants, CFP certificants or consultants. It will be the duty of CFP Board and CFP Board Staff Counsel to maintain an office in the Denver metropolitan area (or such other location as approved by CFP Board’s Board of Governors) to serve as a central office for the filing of requests for the investigation of CFP Board designee conduct, for the coordination of such investigations, for the administration of all disciplinary enforcement proceedings carried out pursuant to these Procedures, for the prosecution of charges of wrongdoing against CFP Board designees pursuant to these Procedures and for the performance of such other duties as are designated by the Board or the Chief Executive Officer of CFP Board. CFP Board Staff Counsel shall be under the day-to-day supervision of the Chief Executive Officer of CFP Board, but shall have ultimate responsibility to the Board.

## **Article 3: Grounds for Discipline**

Misconduct by a CFP Board designee, individually or in concert with others, including the following acts or omissions, shall constitute grounds for discipline, whether or not the act or omission occurred in the course of a client relationship:

- A. Any act or omission which violates the provisions of the Code of Ethics;
- B. Any act or omission which fails to comply with the *Practice Standards*;
- C. Any act or omission which violates the criminal laws of any State or of the United States or of any province, territory or jurisdiction of any other country, provided however, that conviction thereof in a criminal proceeding shall not be a prerequisite to the institution of disciplinary proceedings, and provided further, that acquittal in a criminal proceeding shall not bar a disciplinary action;
- D. Any act which is the proper basis for professional suspension, as defined herein, provided professional suspension shall not be a prerequisite to the institution of disciplinary proceedings, and

provided further, that dismissal of charges in a professional suspension proceeding shall not necessarily bar a disciplinary action;

- E. Any act or omission which violates these Procedures or which violates an order of discipline;
- F. Failure to respond to a request by the Board, without good cause shown, or obstruction of the Board, or any panel or board thereof, or CFP Board staff in the performance of its or their duties. Good cause includes, without limitation, an assertion that a response would violate a CFP Board designee's constitutional privilege against self-incrimination;
- G. Any false or misleading statement made to CFP Board.
- H.

The enumeration of the foregoing acts and omissions constituting grounds for discipline is not exclusive and other acts or omissions amounting to unprofessional conduct may constitute grounds for discipline.

#### **Article 4: Forms of Discipline**

In cases where no grounds for discipline have been established, the Board may dismiss the matter as either without merit or with a cautionary letter. In all cases, the Board has the right to require CFP Board designees to complete additional continuing education or other remedial work. Such continuing education or remedial work may be ordered instead of, or in addition to, any discipline listed below. Where grounds for discipline have been established, any of the following forms of discipline may be imposed in these cases where grounds for discipline have been established.

##### *4.1 Private Censure*

The Board may order private censure of a CFP Board designee which shall be an unpublished written reproach mailed by the Board to a censured CFP Board designee.

##### *4.2 Public Letter of Admonition*

The Board may order that a Letter of Admonition be issued against a CFP Board designee, which shall be a publishable written reproach of the CFP Board designee's behavior. It shall be standard procedure to publish the Letter of Admonition in a press release or in such other form of publicity selected by the Board. In some cases when the Board determines that there are mitigating circumstances, it may decide to withhold public notification.

##### *4.3 Suspension*

The Board may order suspension for a specified period of time, not to exceed five (5) years, for those individuals it deems can be rehabilitated. In the event of a suspension, it shall be standard procedure to publish the fact of the suspension together with identification of CFP Board designee in a press release, or in such other form of publicity as is selected by the Board. In some cases when the Board determines that there are extreme mitigating circumstances it may decide to withhold public notification. CFP Board designees receiving a suspension may qualify for reinstatement to use the marks as provided in Article 15.

##### *4.4 Revocation*

The Board may order permanent revocation of a CFP Board designee's right to use the marks. In the event of a permanent revocation it shall be standard procedure to publish the fact of the revocation together with identification of the CFP Board designee in a press release, or in such other form of publicity as is selected by the Board. In some cases when the Board determines that there are extreme mitigating circumstances it may decide to withhold public notification. Revocation shall be permanent.

##### *4.5 Forms of Discipline Concerning Candidates*

Under certain circumstances, the Board may take action in matters involving the conduct of candidates for CFP® certification. Action that may be taken in these cases, where grounds have been established, correspond in character and degree to the four forms of discipline described in Articles 4.1 through 4.4 above, and are correspondingly as follows:

- A. Subject to the candidate's meeting all other requirements of certification, certification, if any, of the candidate with a private censure in the candidate's record in the form stated;
- B. Subject to the candidate's meeting all other requirements of certification, certification, if any, of the candidate with issuance of a Letter of Admonition, published as applicable, and in the candidate's record in the form stated;
- C. Certification, if any, suspended for a specified period, not to exceed five (5) years;
- D. Certification, if any, denied.
- E.

In the event of either a suspension or a denial of certification, the fact of such suspension or denial shall be publishable at the discretion of the Board. A candidate for the CFP certification who has been the subject of an order to suspend certification may seek to reapply for certification according to the same procedures in Article 15.2. Such candidates, in addition, shall meet the requirements of original certification.

#### **Article 5: Interim Suspension Status**

Interim suspension is the temporary suspension by the Board of a CFP Board designee's right to use the marks for a definite or indefinite period of time, while proceedings conducted pursuant to these procedures are pending against the CFP Board designee. Imposition of an interim suspension shall not preclude the imposition of any other form of discipline entered by the Board in final resolution of the disciplinary proceeding.

##### *5.1 Issuance of a Show Cause Order*

Although a CFP Board designee's right to use the marks shall not ordinarily be suspended during the pendency of such proceedings, when it appears that a CFP Board designee has been convicted of a serious crime as defined in Article 12.5, or has been the subject of a professional suspension as defined in Article 12.6, or has converted property or funds, has engaged in conduct which poses an immediate threat to the public, or has engaged in conduct the gravity of which impinges upon the stature and reputation of the marks, the Inquiry Panel or CFP Board Staff Counsel may issue an Order to Show Cause why the CFP Board designee's right to use the marks should not be suspended during the pendency of the proceedings.

##### *5.2 Service*

CFP Board shall serve the Order to Show Cause upon the CFP Board designee either by personal service or by certified mail, return receipt requested, mailed to the last known address of the CFP Board designee, as provided in Article 17.2.

##### *5.3 Response*

All responses to Orders to Show Cause shall be in writing and shall be submitted within twenty (20) calendar days from the date of service of the Order to Show Cause upon the CFP Board designee. The CFP Board designee shall, in the response, either request or waive the right to participate in the Show Cause Hearing.

##### *5.4 Failure to Respond to the Order to Show Cause*

If the CFP Board designee fails to file a Response within the period provided in Article 5.3, that CFP Board designee shall be deemed to have waived the right to respond and the allegations set forth in the Order to Show Cause shall be deemed admitted and an interim suspension will automatically be issued.

#### *5.5 Show Cause Hearing*

Upon receiving the CFP Board designee's Response as provided in Article 5.3, a hearing shall be scheduled before no less than a quorum of the Board. If so requested, the CFP Board designee shall have the opportunity to participate at such hearing presenting arguments and evidence on his/her behalf. All evidence presented must be submitted to the CFP Board staff not less than twenty (20) days prior to the scheduled hearing. Any evidence not so submitted may only be admitted by motion at the hearing.

#### *5.6 Interim Suspension*

An interim suspension will be issued when the Board determines that the CFP Board designee has failed to provide evidence which establishes, by a preponderance of the evidence, that the CFP Board designee does not pose an immediate threat to the public and that the gravity of the nature of the CFP Board designee's conduct does not impinge upon the stature and reputation of the marks. The fact that a convicted or suspended CFP Board designee is seeking appellate review of the conviction or suspension shall not limit the power of the Board to impose an interim suspension.

#### *5.7 Automatic Reinstatement Upon Reversal of Conviction or Suspension*

A CFP Board designee subject to a suspension under this Article shall have the suspension vacated immediately upon filing with the Board a certificate demonstrating that the underlying criminal conviction or professional suspension has been reversed; provided, however, the reinstatement upon such reversal shall have no effect on any proceeding conducted pursuant to these procedures then pending against a CFP Board designee.

#### *5.8 Publication*

It shall be standard procedure to publish the fact of an interim suspension together with identification of the CFP Board designee in a press release.

### **Article 6: Investigation**

#### *6.1 Commencement*

Proceedings involving potential ethics violations shall be commenced upon a written request for investigation made by any person which shall be directed to the Board or commenced at the behest of CFP Board Staff Counsel. Proceedings involving *Practice Standards* nonconformance shall be commenced upon a written request for investigation made by any person(s) who have a contractual relationship with the CFP Board designee whose practices are being called into question. In either situation, the Board may, in making a determination of whether to proceed, make such inquiry regarding the underlying facts as they deem appropriate.

#### *6.2 Procedures for Investigation of a Grievance*

Upon receipt of a request for investigation containing allegations which, if true, could give rise to a violation of the Code of Ethics, or upon the acquisition by CFP Board Staff Counsel of information which, if true, could give rise to a violation of the Code of Ethics, the CFP Board designee in question shall be given written notice by CFP Board Staff Counsel that the CFP Board designee is under investigation and of the general nature of the allegations asserted against the CFP Board designee. The CFP Board designee

shall have twenty (20) calendar days from the date of notice of the investigation to file a written response to the allegations with the Board.

- A. *No Response.* At the expiration of the twenty (20) calendar-day period if no response has been received, the matter shall be referred to a Hearing Panel.
- B. *Response.* Upon receipt of a response, CFP Board Staff Counsel shall compile all documents and materials and submit a report to an Inquiry Panel as soon thereafter as is reasonably practicable.

### *6.3 Procedures Before the Inquiry Panel*

From the report of CFP Board Staff Counsel referred to in Article 6.2(b), the Inquiry Panel shall determine if there is probable cause to believe grounds for discipline exists and shall either; (1) dismiss the allegations as being without merit; (2) dismiss the allegations with a letter of caution recommending remedial action and entering other appropriate orders; or (3) refer the matter to CFP Board for preparation and processing of a Complaint against the CFP Board designee.

### *6.4 Disposition*

CFP Board Staff Counsel and the Inquiry Panel shall conduct CFP Board's investigation as expeditiously as reasonably practicable.

## **Article 7: Complaint - Answer - Default**

### *7.1 Inquiry Panel Decision*

If the Inquiry Panel determines that there is probable cause to believe grounds for discipline exists, the Inquiry Panel shall direct CFP Board Staff Counsel to issue a Complaint as set forth in Article 7.2. The issuance of a Complaint for any other reason shall also be in accordance with Section 2 of this article.

### *7.2 Complaint*

An original Complaint shall be prepared by CFP Board staff and forwarded to the CFP Board designee. Copies of the Complaint shall be included with the materials provided to the Hearing Panel in advance of the hearing. The Complaint shall reasonably set forth the grounds for discipline with which the CFP Board designee is charged and the conduct or omission which gave rise to those charges.

### *7.3 Service of the Complaint*

CFP Board staff shall promptly serve the Complaint upon the CFP Board designee either by personal service or by certified mail, return receipt requested, mailed to the last known address of the CFP Board designee or as provided in Article 17.2.

### *7.4 Answer*

All Answers to Complaints shall be in writing. The Answer shall be submitted within twenty (20) calendar days from the date of service of the Complaint upon the CFP Board designee. The CFP Board designee shall file an original and the number of copies specified in the Complaint of such Answer with CFP Board. Copies of the Answer shall be included with the materials provided to the Hearing Panel in advance of the hearing. In the Answer, the CFP Board designee shall respond to every material allegation contained in the Complaint. In addition, the CFP Board designee shall set forth in the Answer any defenses or mitigating circumstances.

### *7.5 Default and Orders of Revocation and Denial*

If the CFP Board designee fails to file an Answer within the period provided by Article 7.4, such CFP Board designee shall be deemed to be in default, and the allegations set forth in the Complaint shall be



deemed admitted. In such circumstance, CFP Board Staff Counsel shall serve upon the CFP Board designee, consistent with Article 7.3, an Order of Revocation or, in cases involving a candidate for certification, an Order of Denial. Such orders shall state clearly and with reasonable particularity the grounds for the revocation or denial of the CFP Board designee's right to use the marks. These Orders are subject to the CFP Board designee's right of appeal as outlined in Article 11.

#### *7.6 Request for Appearance*

Upon the filing of an Answer, the CFP Board designee may request an appearance at the hearing before the Hearing Panel, at which the CFP Board designee may present arguments, witnesses and evidence on his behalf.

### **Article 8: Discovery and Evidence**

#### *8.1 Discovery*

Discovery of a disciplinary case may be obtained only after a Complaint has been issued against a CFP Board designee. The CFP Board designee may obtain copies of all documents in the CFP Board designee's disciplinary file which are not privileged and which are relevant to the subject matter in the pending action before the Hearing Panel. Requests for copies of CFP Board documents must be made to CFP Board Staff Counsel in writing. Release of information contained in a CFP Board designee's disciplinary file is premised on the understanding that materials will be used only for purposes directly connected to the pending CFP Board action.

#### *8.2 Documents*

Documents submitted by CFP Board designees to the Board for consideration in resolution of the issues raised during an investigation shall be limited to 100 pages. No evidence may be accepted less than thirty (30) days prior to the scheduled hearing, except by motion at the hearing.

Should a CFP Board designee deem it necessary to exceed the 100 page limit, the CFP Board designee shall be required to submit a written memorandum that outlines clearly and with reasonable particularity how each and every document submitted by the CFP Board designee or on his or her behalf relates to the allegations contained in the CFP Board Complaint. After reviewing such outline, the Board shall determine which documents will be permitted.

#### *8.3 Witnesses*

Witnesses, if any, shall be identified to the Board no later than thirty (30) days prior to the scheduled hearing. When witnesses are identified, the CFP Board designee shall also state the nature and extent of the witnesses' testimony.

### **Article 9: Hearings**

#### *9.1 Notice*

Not less than thirty (30) calendar days before the date set for the hearing of a Complaint, notice of such hearing shall be given as provided in Article 17.2 to the CFP Board designee or to the CFP Board designee's counsel. The notice shall designate the date and place of the hearing and shall also advise the CFP Board designee that the CFP Board designee is entitled to be represented by counsel at the hearing, to cross-examine witnesses and to present evidence on behalf of the CFP Board designee.

#### *9.2 Designation of a Hearing Panel*

All hearings on Complaints seeking disciplinary action against a CFP Board designee shall be conducted by the Hearing Panel.

### *9.3 Procedure and Proof*

Hearings shall be conducted in conformity with such rules of procedure and evidence as established by the Hearing Panel. It shall not be necessary that rules of procedure and evidence applicable in a court of law are followed in any hearing, but the Hearing Panel may be guided by such rules to the extent it believes it is appropriate. Proof of misconduct shall be established by a preponderance of the evidence. A CFP Board designee may not be required to testify or to produce records over the objection of the CFP Board designee if to do so would be in violation of the CFP Board designee's constitutional privilege against self-incrimination in a court of law. In the course of the proceedings, the Chair of the Hearing Panel shall have the power to require the administration of oath and affirmations. A complete record shall be made of all testimony taken at hearings before the Hearing Panel.

## **Article 10: Report, Findings of Fact and Recommendation**

### *10.1 Hearing Panel*

At the conclusion of the hearing, the Hearing Panel shall record its findings of fact and recommendations and submit the findings and recommendations to the Board for its consideration. In making its recommendation, the Hearing Panel may take into consideration the CFP Board designee's prior disciplinary record, if any.

### *10.2 Report of the Hearing Panel*

The Hearing Panel shall report its findings and recommendations to the Board. In this report, the Hearing Panel shall: (1) determine that the Complaint is not proved or that the facts as established do not warrant the imposition of discipline and recommend the Complaint be dismissed, either as without merit or with caution; or (2) refer the matter to the Board with the recommendation that discipline by the Board is appropriate. The recommendation of the Hearing Panel shall state specifically the form of discipline the Hearing Panel deems appropriate. The Hearing Panel may also recommend that the Board enter other appropriate orders.

### *10.3 Power of the Board*

The Board reserves the authority to review any determination made by the Hearing Panel in the course of a disciplinary or *Practice Standards* proceeding and to enter any order with respect thereto including an order directing that further proceedings be conducted as provided by these Procedures. The Board shall review the report of the Hearing Panel and may either approve the report or modify it. The Board must accept the Hearing Panel's findings of fact, unless, on the basis of its own review of the record, it determines that such findings are clearly erroneous. The Board may modify the Hearing Panel's recommendation without reviewing the record and must state the reasons for the modification.

## **Article 11: Appeals**

All appeals from orders of the Board shall be submitted to CFP Board's Board of Appeals in accordance with the Rules and Procedures of the Board of Appeals. If an order of the Board is not appealed within thirty (30) calendar days after notice of the order is sent to the CFP Board designee, such order shall become final.

## **Article 12: Conviction of a Crime or Professional Suspension**

### *12.1 Proof of Conviction or Professional Suspension*

Except as otherwise provided in these Procedures, a certificate from the clerk of any court of criminal jurisdiction indicating that a CFP Board designee has been convicted of a crime in that court or a letter or other writing from a governmental or industry self-regulatory authority to the effect that a CFP Board designee has been the subject of an order of professional suspension (as hereinafter defined) by such authority, shall conclusively establish the existence of such conviction or such professional suspension for purposes of disciplinary proceedings and shall be conclusive proof of the commission of that crime or of the basis for such suspension, by the CFP Board designee.

#### *12.2 Duty to Report Criminal Conviction or Professional Suspension*

Every CFP Board designee, upon being convicted of a crime, except misdemeanor traffic offenses or traffic ordinance violations unless such offense involves the use of alcohol or drugs, or upon being the subject of professional suspension, shall notify CFP Board in writing of such conviction or suspension within ten (10) calendar days after the date on which the CFP Board designee is notified of the conviction or suspension.

#### *12.3 Commencement of Disciplinary Proceedings Upon Notice of Conviction or Professional Suspension*

Upon receiving notice that a CFP Board designee has been convicted of a crime other than a serious crime (as defined herein) CFP Board shall, following investigation as provided in these Procedures, refer the matter to an Inquiry Panel for further proceedings. If the conviction is for a serious crime or if a CFP Board designee is the subject of professional suspension, CFP Board shall obtain the record of conviction or proof of suspension and file a Complaint against CFP Board designee as provided in Article 7. If the CFP Board designee's criminal conviction or professional suspension is either proved or admitted as provided herein, the CFP Board designee shall have the right to be heard by the Hearing Panel only on matters of rebuttal of any evidence presented by Staff Counsel other than proof of the conviction or suspension.

#### *12.4 Conviction of Serious Crime or Professional Suspension - Immediate Suspension*

Upon receiving notification of a CFP Board designee's criminal conviction or professional suspension, CFP Board Staff Counsel may, at its discretion, issue a notice to the convicted or suspended CFP Board designee directing that the CFP Board designee show cause why the CFP Board designee's right to use the marks should not be immediately suspended pursuant to Article 5.

#### *12.5 Serious Crime Defined*

The term serious crime as used in these rules shall include: (1) any felony; (2) any lesser crime, a necessary element of which as determined by its statutory or common law definition involves misrepresentation, fraud, extortion, misappropriation or theft; and/or (3) an attempt or conspiracy to commit such crime, or solicitation of another to commit such crime.

#### *12.6 Definition of a Professional Suspension*

A professional suspension as used herein shall include the suspension or bar as a disciplinary measure by any governmental or industry self-regulatory authority of a license as a registered securities representative, broker/dealer, insurance or real estate salesperson or broker, insurance broker, attorney, accountant, investment adviser or financial planner.

### **Article 13: Settlement Procedure**

A CFP Board designee may submit an Offer of Settlement in lieu of a disciplinary hearing pursuant to these Disciplinary Rules and Procedures. The Offer of Settlement shall be in writing and must be submitted to CFP Board Staff Counsel at least 30 days prior to the CFP Board designee's scheduled disciplinary hearing. A Hearing Panel will consider the Offer and take one of the actions described in Articles 13.2 and 13.3.

Submitting an Offer of Settlement shall stay all proceedings conducted pursuant to these Disciplinary Rules and Procedures.

### *13.1 Offer of Settlement*

Offers of Settlement may be made where the nature of the proceeding, and the interests of the public and CFP Board permit. A CFP Board designee shall be permitted to submit only one Offer of Settlement during the course of a disciplinary proceeding. The Offer must be made in conformity with the provisions of this Article and should not be made frivolously or propose an action inconsistent with the seriousness of the violations alleged in the proceedings. Every Offer of Settlement shall contain and describe in reasonable detail:

- A. The act or practice which the member or person associated with a member is alleged to have engaged in or omitted;
- B. The principle, rule, regulation or statutory provision which such act, practice or omission to act is alleged to have been violated;
- C. A statement that the CFP Board designee consents to findings of fact and violations consistent with the statements contained in the offer required by paragraphs 13.1(a) and 13.1(b);
- D. Proposed Board action to be taken and a statement that the CFP Board designee consents to the proposed Board action; and
- E. A waiver of all rights of appeal to CFP Board's Board of Appeals and the courts or to otherwise challenge or contest the validity of the Order issued if the Offer of Settlement is accepted.

### *13.2 Acceptance of Offer*

If an Offer of Settlement is accepted by a Hearing Panel, the decision of the Hearing Panel shall be reviewed by the Board. The Board's decision to affirm the decision of the Hearing Panel to accept the Offer of Settlement shall conclude the proceeding as of the date the Offer of Settlement is accepted. If the Offer of Settlement includes a penalty of revocation or suspension, the revocation or suspension shall become effective immediately upon acceptance by the Hearing Panel and affirmance by the Board.

### *13.3 Rejection of Offer*

If the Offer of Settlement is rejected by a Hearing Panel, the Offer of Settlement shall be deemed void and the matters raised in the Complaint will be set for hearing at the next meeting of the Board. The CFP Board designee shall not be prejudiced by the prior Offer of Settlement, and it shall not be given consideration in the determination of the issues involved in the pending or any other proceeding.

### *13.4 Publication*

In the event proceedings pursuant to Article 13 result in a permanent revocation, or suspension, or otherwise result in a termination of the right to use the marks, it shall be standard procedure to publish such fact together with identification of the CFP Board designee in a press release, or in such other form of publicity as is selected by the Board.

## **Article 14: Required Action After Revocation or Suspension**

After the entry of an order of revocation or suspension is final, the CFP Board designee shall promptly terminate any use of the marks and in particular shall not use them in any advertising, announcement, letterhead or business card.

## **Article 15: Reinstatement After Discipline**

### *15.1 Reinstatement After Revocation*

Revocation shall be permanent, and there shall be no opportunity for reinstatement.

### *15.2 Reinstatement After Suspension*

Unless otherwise provided by the Board in its order of suspension, a CFP Board designee who has been suspended for a period of one (1) year or less shall be automatically reinstated upon the expiration of the period of suspension, provided the CFP Board designee files with CFP Board within thirty (30) calendar days of the expiration of the period of suspension an affidavit stating that the suspended CFP Board designee has fully complied with the order of suspension and with all applicable provisions of these Procedures, unless such condition is waived by the Board in its discretion. A CFP Board designee who has been suspended for a period longer than one (1) year must petition the Board for a reinstatement hearing within six months of the end of his/her suspension, or failure to do so will result in administrative relinquishment. Before any reinstatement hearing will be scheduled, the CFP Board designee must meet all administrative requirements for recertification, pay the reinstatement hearing costs and provide evidence, if necessary, that all prior hearing costs have been paid. At the reinstatement hearing, the CFP Board designee must prove by clear and convincing evidence that the CFP Board designee has been rehabilitated, has complied with all applicable disciplinary orders and provisions of these Procedures, and that the CFP Board designee is fit to use the marks.

### *15.3 Investigation*

Immediately upon receipt of a petition for reinstatement, CFP Board Staff Counsel will initiate an investigation. The petitioner shall cooperate in any such investigation, and CFP Board Staff Counsel shall submit a report of the investigation to the Board which shall report on the petitioner's past disciplinary record and any recommendation regarding reinstatement.

### *15.4 Successive Petitions*

If an individual is denied reinstatement, he/she must wait two (2) years to again petition for reinstatement; if this second petition is denied, the individual's right to use the marks shall be administratively relinquished.

### *15.5 Reinstatement Fee*

Petitioners for reinstatement will be assessed the costs of the reinstatement proceeding.

## **Article 16: Confidentiality of Proceedings**

### *16.1 Confidentiality*

Except as otherwise provided in these Procedures, all proceedings conducted pursuant to these Procedures shall be confidential and the records of the Board, Hearing Panel, CFP Board Staff Counsel and CFP Board staff shall remain confidential and shall not be made public.

### *16.2 Exceptions to Confidentiality*

The pendency, subject matter and status of proceedings conducted pursuant to these Procedures may be disclosed if (1) the proceeding is predicated on criminal conviction or professional suspension as defined herein; or (2) the CFP Board designee has waived confidentiality; or (3) such disclosure is required by legal process of a court of law or other governmental body or agency having appropriate jurisdiction.

## **Article 17: General Provisions**

### *17.1 Quorum*

A majority of members of the Board shall be present in order to constitute a quorum of such Board, and the approval of a majority of the quorum shall be the action of such Board.

### *17.2 Notice and Service*

Except as may otherwise be provided in these Procedures, notice shall be in writing and the giving of notice and/or service shall be sufficient when made either personally or by certified mail or overnight mail sent to the last known address of the CFP Board designee according to the records of CFP Board.

### *17.3 Costs*

In all disciplinary cases wherein a hearing is convened, the Board will assess against the CFP Board designee the costs of the proceedings. In addition, a CFP Board designee who desires an appearance, either telephonically or in person, or who submits an Offer of Settlement pursuant to Article 13, will be required to submit hearing costs not less than thirty (30) days prior to the date of the scheduled hearing. In the event that the hearing results in a dismissal without merit, the Board shall have the discretion to refund the CFP Board designee's hearing fee; a CFP Board designee may specifically request that the Board consider refunding the hearing fee but such request must be made to the Hearing Panel in the CFP Board designee's Answer or at the hearing. A CFP Board designee who petitions for reinstatement from a suspension or revocation or who petitions for appeal shall bear the costs of such proceeding.

*Financial hardship.* In the event a CFP Board designee is unable to pay the required hearing costs due to financial hardship, the CFP Board designee may submit a written statement explaining his or her financial situation and request a deferral, reduction or waiver of the hearing costs. Upon receipt and review of such request, Staff Counsel shall have the discretion to defer, reduce or waive the required hearing costs. All written requests for a reduction or waiver of hearing costs due to financial hardship must be submitted at least forty-five (45) days prior to the date of the scheduled hearing.

### *17.4 Electronic Signature*

Some documents that require a handwritten signature may be submitted electronically through CFP Board's closed Web site. Any document received by CFP Board through this process shall constitute conclusive proof that: (1) the CFP Board designee whose name appears on the document submitted such document; and (2) the CFP Board designee intended to be bound by the terms and conditions contained therein. Accordingly, the document shall be as legally binding as any containing a handwritten signature.\

### **Anonymous Case Histories**

Anonymous case histories are available upon request to CFP Board