



CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

September 12, 2022

Commissioner Tung Chan
Colorado Division of Securities
1560 Broadway, Suite 900
Denver, CO 80202

Dear Commissioner Chan,

Certified Financial Planner Board of Standards¹ (CFP Board) respectfully submits this comment letter with respect to the “Ongoing Financial Planning Guide” (Guide or Guidance) issued earlier this year by the Division of Securities (Division). CFP Board benefits the public by fostering professional standards in personal financial planning. We set and enforce the requirements for CERTIFIED FINANCIAL PLANNER™ certification — to uphold standards of competency and ethics for financial planners who commit to CFP Board that they will put their clients' best interests first. Today, there are more than 93,000 CFP® professionals, representing nearly 1 in 3 financial advisors in the U.S. More than 2,750 CFP® professionals do business in Colorado.

Our main concern with the Guidance is that it reflects an unjustified bias in favor of the asset under management (AUM) fee model. While we recognize this fee model is well-suited for many investors and is the prevalent fee model today, we also are encouraged to see a growing number of CFP® professionals adopt more flexible fee arrangements that enable them to provide fiduciary-level financial advice to a broader segment of the population.

CFP Board shares the Division's investor-protection concern that fee structures for financial planning services be fair to investors. As such, we believe that when evaluating various fee structures, including the traditional commission or AUM models and the emerging nontraditional fee-for-service (FFS) models (including retainers, subscriptions, and annual fixed or flat fees), it is important to consider whether the fees are (i) transparent, (ii) reasonable for the services provided, and (iii) severable. In all instances, the method of compensation should be disclosed and appropriate for the client's needs.

CFP Board's *Code of Ethics and Standards of Conduct (Code and Standards)* requires CFP® professionals to uphold the principles of integrity, objectivity, competence, fairness, and confidentiality. The fiduciary provision in the *Code and Standards* mandates that CFP® professionals commit to putting their clients' interests first at all times when providing financial advice.

¹ CFP Board is a nonprofit certification and standard-setting organization that sets competency and ethical standards for more than 93,000 Certified Financial Planner™ professionals throughout the country. CFP® professionals voluntarily agree to comply with CFP Board's rigorous standards, including education, examination, experience and ethics, and subject themselves to CFP Board's disciplinary oversight.

When providing financial advice and/or financial planning services in accordance with the *Code and Standards*, a CFP® professional must, prior to or at the time of the engagement, provide the following information to the client and document that this has been done: (i) a description of how the client pays for the products and services; (ii) a description of any additional types of costs that the client may incur, including product management fees, surrender charges, and sales loads; and (iii) how the CFP® professional, their firm, and any related party are compensated for providing the products and services. A CFP® professional also must notify the client any time these fees are changed or updated.

An organizational priority for CFP Board is to provide consumers greater access to ethical and competent financial planners. We know that CFP® professionals can play a significant role in creating financial stability for their clients by providing advice earlier in their adult life and assisting them with financial plans for saving and investing for a home, college, new child, or retirement, as well as for paying down debt, particularly student loans that can be crippling for many young professionals. But, under the traditional AUM fee model, access to competent and ethical financial planners is reserved primarily for individuals who already have accumulated a certain level of investible assets. As a result, a substantial portion of the public who would benefit from earlier access to financial planning services is underserved by the AUM fee model.

To address this inequity in access to professional financial advice, a growing number of CFP® professionals are offering FFS pricing models. Like the traditional AUM fee model, retainers, subscriptions, and hourly fees, align how the consumer pays with the services they value. While most CFP® professionals continue to offer an AUM fee structure for their asset management clients, there is growing acceptance of flexible fee structures that work for lower-asset individuals and families, including the middle class,² young workers dealing with significant student loan debt, and people of color. Each of these groups has a need for fiduciary-level financial advice but cannot easily access it through the traditional AUM fee model.

Absent an ability to pay hourly, monthly, or per service, individuals who have yet to accumulate significant assets too often are relegated to advice by non-fiduciary financial professionals. CFP Board is concerned that the Guidance will prompt CFP® professionals registered as investment advisers in Colorado to abandon their FFS arrangements and move exclusively to AUM billing practices, even when this fee arrangement does not align with the services they are providing to their clients.

Additionally, it is not clear what the Division means when they use the term “ongoing financial planner” in the Guide. A financial planner is someone who helps clients with a lifelong plan for accumulating assets and avoiding financial risk. In contrast, an investment adviser is someone who advises on investments for an individual, and often manages these investments on behalf of these clients. Although CFP® professionals typically are registered investment advisers, financial planning and investment management are not the same service.

We believe that Coloradans would be more effectively served if this Guidance, rather than being issued independent of public input, is subject to the rulemaking process. Because the Guidance is legally binding on registrants, and is likely to exclude a large percentage of residents from receiving effective financial planning or investment advice, it deserves a more rigorous review

² The average income in Colorado is \$45,559, [World Population Review 2022](#)

than has been afforded by the release of the Guide. The rulemaking process also would preserve registrants' due process rights under the Colorado Administrative Procedure Act.

We encourage you to support community-wide access to financial planning services and flexible compensation models. With flexible fee structures, the financial planning profession has an opportunity to democratize financial advice so that more people have access to competent and ethical financial advice earlier in their saving and investment years. We strongly support continued flexibility in how consumers pay for these services. We respectfully request that Colorado rethink the Guide's position on using an FFS model in financial planning and investment advice, and help our certificants better serve Colorado's diverse communities.

If you have any questions or would like to discuss this issue, please contact Maureen Thompson, vice president, public policy, by phone at (202) 379-2281 or by email at mthompson@cfpboard.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kevin R. Keller". The signature is fluid and cursive, with a large initial "K" and "R".

Kevin R. Keller, CEO
Certified Financial Planner Board of Standards, Inc.