

**CFP BOARD**

# **SIDE-BY-SIDE COMPARISON**

**OF CODE OF ETHICS AND STANDARDS OF  
CONDUCT TO CURRENT STANDARDS  
OF PROFESSIONAL CONDUCT**

MARCH 2018, AS REVISED IN NOVEMBER 2018

# SIDE-BY-SIDE COMPARISON OF CODE OF ETHICS AND STANDARDS OF CONDUCT TO CURRENT STANDARDS OF PROFESSIONAL CONDUCT

## CODE AND STANDARDS UPDATED NOVEMBER 2018

## CURRENT STANDARDS OF PROFESSIONAL CONDUCT

### PREAMBLE

CFP Board's *Code of Ethics and Standards of Conduct* reflects the commitment that all CFP® professionals make to high standards of competency and ethics. CFP Board's *Code and Standards* benefits and protects the public, provides standards for delivering financial planning, and advances financial planning as a distinct and valuable profession. Compliance with the *Code and Standards* is a requirement of CFP® certification that is critical to the integrity of the CFP® marks. Violations of the *Code and Standards* may subject a CFP® professional to discipline.

### CODE OF ETHICS

A CFP® professional must:

1. Act with honesty, integrity, competence, and diligence.
2. Act in the client's best interests.
3. Exercise due care.
4. Avoid or disclose and manage conflicts of interest.
5. Maintain the confidentiality and protect the privacy of client information.
6. Act in a manner that reflects positively on the financial planning profession and CFP® certification.

### CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY

**Principle 1** – Integrity: Provide professional services with integrity.

**Principle 2** – Objectivity: Provide professional services objectively.

**Principle 3** – Competence: Maintain the knowledge and skill necessary to provide professional services competently.

**Principle 4** – Fairness: Be fair and reasonable in all professional relationships. Disclose conflicts of interest.

**Principle 5** – Confidentiality: Protect the confidentiality of all client information.

**Principle 6** – Professionalism: Act in a manner that demonstrates exemplary professional conduct.

**Principle 7** – Diligence: Provide professional services diligently.

**STANDARDS OF CONDUCT**

## A. Duties Owed to Clients

## 1. Fiduciary Duty

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and therefore, act in the best interests of the Client. The following duties must be fulfilled:

- a. **Duty of Loyalty.** A CFP® professional must:
  - i. Place the interests of the Client above the interests of the CFP® professional and the CFP® Professional's Firm;
  - ii. Avoid Conflicts of Interest, or fully disclose Material Conflicts of Interest to the Client, obtain the Client's informed consent, and properly manage the conflict; and
  - iii. Act without regard to the financial or other interests of the CFP® professional, the CFP® Professional's Firm, or any individual or entity other than the Client, which means that a CFP® professional acting under a Conflict of Interest continues to have a duty to act in the best interests of the Client and place the Client's interests above the CFP® professional's.
- b. **Duty of Care.** A CFP® professional must act with the care, skill, prudence, and diligence that a prudent professional would exercise in light of the Client's goals, risk tolerance, objectives, and financial and personal circumstances.
- c. **Duty to Follow Client Instructions.** A CFP® professional must comply with all objectives, policies, restrictions, and other terms of the Engagement and all reasonable and lawful directions of the Client.

**Rule 1.4** A certificant shall at all times place the interest of the client ahead of his or her own. When the certificant provides financial planning or material elements of financial planning, the certificant owes to the client the duty of care of a fiduciary as defined by CFP Board.

**Terminology:** "Fiduciary." One who acts in utmost good faith, in a manner he or she reasonably believes to be in the best interest of the client.

**Rule 4.5** In addition to the requirements of Rule 1.4, a certificant shall make and/or implement only recommendations that are suitable for the client.

## 2. INTEGRITY

- a. A CFP® professional must perform Professional Services with integrity. Integrity demands honesty and candor, which may not be subordinated to personal gain or advantage. Allowance may be made for innocent error and legitimate differences of opinion, but integrity cannot co-exist with deceit or subordination of principle.
- b. A CFP® professional may not, directly or indirectly, in the conduct of Professional Services:
  - i. Employ any device, scheme, or artifice to defraud;
  - ii. Make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
  - iii. Engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

## 3. COMPETENCE

A CFP® professional must provide Professional Services with competence, which means with relevant knowledge and skill to apply that knowledge. When the CFP® professional is not sufficiently competent in a particular area to provide the Professional Services required under the Engagement, the CFP® professional must gain competence, obtain the assistance of a competent professional, limit or terminate the Engagement, and/or refer the Client to a competent professional. The CFP® professional shall describe to the Client any requested Professional Services that the CFP® professional will not be providing.

## 4. DILIGENCE

A CFP® professional must provide Professional Services, including responding to reasonable Client inquiries, in a timely and thorough manner.

### CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY PRINCIPLE 1: INTEGRITY

Provide professional services with integrity.

Integrity demands honesty and candor which must not be subordinated to personal gain and advantage. Certificants are placed in positions of trust by clients, and the ultimate source of that trust is the certificant's personal integrity. Allowance can be made for innocent error and legitimate differences of opinion, but integrity cannot co-exist with deceit or subordination of one's principles.

**Rule 4.1** A certificant shall treat prospective clients and clients fairly and provide professional services with integrity and objectivity.

**Rule 2.1** A certificant shall not communicate, directly or indirectly, to clients or prospective clients any false or misleading information directly or indirectly related to the certificant's professional qualifications or services. A certificant shall not mislead any parties about the potential benefits of the certificant's service. A certificant shall not fail to disclose or otherwise omit facts where that disclosure is necessary to avoid misleading clients.

### CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY PRINCIPLE 3: COMPETENCE.

Maintain the knowledge and skill necessary to provide professional services competently. Competence means attaining and maintaining an adequate level of knowledge and skill, and application of that knowledge and skill in providing services to clients. Competence also includes the wisdom to recognize the limitations of that knowledge and when consultation with other professionals is appropriate or referral to other professionals necessary. Certificants make a continuing commitment to learning and professional improvement.

**Rule 4.2** A certificant shall offer advice only in those areas in which he or she is competent to do so and shall maintain competence in all areas in which he or she is engaged to provide professional services.

### CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY PRINCIPLE 7: DILIGENCE.

Provide professional services diligently.

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

## 5. DISCLOSE AND MANAGE CONFLICTS OF INTEREST

- a. **Disclose Conflicts.** When providing Financial Advice, a CFP® professional must make full disclosure of all Material Conflicts of Interest with the CFP® professional's Client that could affect the professional relationship. This obligation requires the CFP® professional to provide the Client with sufficiently specific facts so that a reasonable Client would be able to understand the CFP® professional's Material Conflicts of Interest and the business practices that give rise to the conflicts, and give informed consent to such conflicts or reject them. A sincere belief by a CFP® professional with a Material Conflict of Interest that he or she is acting in the best interests of the Client is insufficient to excuse failure to make full disclosure.
- i. A CFP® professional must make full disclosure and obtain the consent of the Client before providing any Financial Advice regarding which the CFP® professional has a Material Conflict of Interest.
  - ii. In determining whether the disclosure about a Material Conflict of Interest provided to the Client was sufficient to infer that a Client has consented to a Material Conflict of Interest, CFP Board will evaluate whether a reasonable Client receiving the disclosure would have understood the conflict and how it could affect the advice the Client will receive from the CFP® professional. The greater the potential harm the conflict presents to the Client, and the more significantly a business practice that gives rise to the conflict departs from commonly accepted practices among CFP® professionals, the less likely it is that CFP Board will infer informed consent absent clear evidence of informed consent. Ambiguity in the disclosure provided to the Client will be interpreted in favor of the Client.
  - iii. Evidence of oral disclosure of a conflict will be given such weight as CFP Board in its judgment deems appropriate. Written consent to a conflict is not required.

## CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY PRINCIPLE 4: FAIRNESS

Be fair and reasonable in all professional relationships. Disclose conflicts of interest.

Fairness requires impartiality, intellectual honesty and disclosure of material conflicts 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.

**Rule 2.2** A certificant shall disclose to a prospective client or client the following information: ...

- b. A general summary of likely conflicts of interest between the client and the certificant, the certificant's employer or any affiliates or third parties, including, but not limited to, information about any familial, contractual or agency relationship of the certificant or the certificant's employer that has a potential to materially affect the relationship.

- b. **Manage Conflicts.** A CFP® professional must adopt and follow business practices reasonably designed to prevent Material Conflicts of Interest from compromising the CFP® professional's ability to act in the Client's best interests.

## 6. SOUND AND OBJECTIVE PROFESSIONAL JUDGMENT

A CFP® professional must exercise professional judgment on behalf of the Client that is not subordinated to the interest of the CFP® professional or others. A CFP® professional may not solicit or accept any gift, gratuity, entertainment, non-cash compensation, or other consideration that reasonably could be expected to compromise the CFP® professional's objectivity.

## 7. PROFESSIONALISM

A CFP® professional must treat Clients, prospective Clients, fellow professionals, and others with dignity, courtesy, and respect.

## 8. COMPLY WITH THE LAW

- a. A CFP® professional must comply with the laws, rules, and regulations governing Professional Services.
- b. A CFP® professional may not intentionally or recklessly participate or assist in another person's violation of these Standards or the laws, rules, or regulations governing Professional Services.

## CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY PRINCIPLE 2: OBJECTIVITY.

Provide professional services objectively. Objectivity requires intellectual honesty and impartiality. Regardless of the particular service rendered or the capacity in which a certificant functions, certificants should protect the integrity of their work, maintain objectivity and avoid subordination of their judgment.

**Rule 4.4** A certificant shall exercise reasonable and prudent professional judgment in providing professional services to clients.

## CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY PRINCIPLE 6: PROFESSIONALISM

Act in a manner that demonstrates exemplary professional conduct.

Professionalism requires behaving with dignity and courtesy to clients, fellow professionals, and others in business-related activities. Certificants cooperate with fellow certificants to enhance and maintain the profession's public image and improve the quality of services.

**Rule 4.3** A certificant shall be in compliance with applicable regulatory requirements governing professional services provided to the client.

## 9. CONFIDENTIALITY AND PRIVACY

- a. A CFP® professional must keep confidential and may not disclose any non-public personal information about any prospective, current, or former Client ("client"), except that the CFP® professional may disclose information:
  - i. For ordinary business purposes:
    - a. With the client's consent, so long as the client has not withdrawn the consent;
    - b. To a CFP® Professional's Firm or other persons with whom the CFP® professional is providing services to or for the client, when necessary to perform those services;
    - c. As necessary to provide information to the CFP® professional's attorneys, accountants, and auditors; and
    - d. To a person acting in a representative capacity on behalf of the client;
  - ii. For legal and enforcement purposes:
    - a. To law enforcement authorities concerning suspected unlawful activities, to the extent permitted by the law;
    - b. As required to comply with federal, state, or local law;
    - c. As required to comply with a properly authorized civil, criminal, or regulatory investigation or examination, or subpoena or summons, by a governmental authority;
    - d. As necessary to defend against allegations of wrongdoing made by a governmental authority;
    - e. As necessary to present a civil claim against, or defend against a civil claim raised by, a client;
    - f. As required to comply with a request from CFP Board concerning an investigation or adjudication; and
    - g. As necessary to provide information to professional organizations that are assessing the CFP® professional's compliance with professional standards.

## CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY PRINCIPLE 5: CONFIDENTIALITY

Protect the confidentiality of all client information.

Confidentiality means ensuring that information is accessible only to those authorized to have access. A relationship of trust and confidence with the client can only be built upon the understanding that the client's information will remain confidential.

**Rule 3.1** A certificant shall treat information as confidential except as required in response to proper legal process; as necessitated by obligations to a certificant's employer or partners; as required to defend against charges of wrongdoing; in connection with a civil dispute; or as needed to perform the services.

- b. A CFP® professional may not use any non-public personal information about a client for his or her direct or indirect personal benefit, whether or not it causes detriment to the client, unless the client consents.
- c. A CFP® professional, either directly or through the CFP® professional's Firm, must take reasonable steps to protect the security of non-public personal information about any client, including the security of information stored physically or electronically, from unauthorized access that could result in harm or inconvenience to the client.
- d. A CFP® professional, either directly or through the CFP® Professional's Firm, must adopt and implement policies regarding the protection, handling, and sharing of a client's non-public personal information and must provide a client with written notice of those policies at the time of the Engagement and thereafter not less than annually (at least once in any 12 month period) unless (i) the CFP® professional's policies have not changed since the last notice sent to a client; and (ii) the CFP® professional does not disclose non-public personal information other than as permitted without a client's consent.
- e. A CFP® professional shall be deemed to comply with this Section if the CFP® Professional's Firm is subject to, and the CFP® professional complies with, Regulation S-P under the federal securities laws or substantially equivalent federal or state laws or rules.

**Rule 3.2** A certificant shall take prudent steps to protect the security of information and property, including the security of stored information, whether physically or electronically, that is within the certificant's control.



**10. PROVIDE INFORMATION TO A CLIENT****a. When Providing Financial Advice.**

When providing or agreeing to provide Financial Advice that does not require Financial Planning in accordance with the Practice Standards, a CFP® professional must provide the following information to the Client, prior to or at the time of the Engagement, and document that the information has been provided to the Client:

- i. A description of the services and products to be provided;
- ii. How the Client pays for the products and services, and a description of the additional types of costs that the Client may incur, including product management fees, surrender charges, and sales loads;
- iii. How the CFP® professional, the CFP® Professional's Firm, and any Related Party are compensated for providing the products and services;
- iv. The existence of any public discipline or bankruptcy, and the location(s), if any, of the webpages of all relevant public websites of any governmental authority, self-regulatory organization, or professional organization that sets forth the CFP® professional's public disciplinary history or any personal bankruptcy or business bankruptcy where the CFP® professional was a Control Person;
- v. The information required under Section A.5.a. (Conflict of Interest Disclosure);
- vi. The information required under Section A.9.d. (Written Notice Regarding Non-Public Personal Information);
- vii. The information required under Section A.13.a.ii. (Disclosure of Economic Benefit for Referral or Engagement of Additional Persons); and
- viii. Any other information about the CFP® professional or the CFP® Professional's Firm that is Material to a Client's decision to engage or continue to engage the CFP® professional or the CFP® Professional's Firm.

**Rule 1.1** The certificant and the prospective client or client shall mutually agree upon the services to be provided by the certificant.

**Rule 1.2** If the certificant's services include financial planning or material elements of financial planning, prior to entering into an agreement, the certificant shall provide written information or discuss with the prospective client or client the following:

- a. The obligations and responsibilities of each party under the agreement with respect to:
  1. Defining goals, needs and objectives,
  2. Gathering and providing appropriate data,
  3. Examining the result of the current course of action without changes,
  4. The formulation of any recommended actions,
  5. Implementation responsibilities, and
  6. Monitoring responsibilities.
- b. Compensation that any party to the agreement or any legal affiliate to a party to the agreement will or could receive under the terms of the agreement; and factors or terms that determine costs, how decisions benefit the certificant and the relative benefit to the certificant.
- c. Terms under which the agreement permits the certificant to offer proprietary products.
- d. Terms under which the certificant will use other entities to meet any of the agreement's obligations.

**Rule 1.3** If the services include financial planning or material elements of financial planning, the certificant or the certificant's employer shall enter into a written agreement governing the financial planning services ("Agreement"). The Agreement shall specify:

- a. The parties to the Agreement,
- b. The date of the Agreement and its duration,
- c. How and on what terms each party can terminate the Agreement, and
- d. The services to be provided as part of the Agreement.

- b. **When Providing Financial Planning.** When providing or required to provide Financial Planning in accordance with the Practice Standards, a CFP® professional must provide the following information to the Client, prior to or at the time of the Engagement, in one or more written documents:
- i. The information required to be provided in Section A.10.a.i.-iv. and vi -viii.; and
  - ii. The terms of the Engagement between the Client and the CFP® professional or the CFP® Professional's Firm, including the Scope of Engagement and any limitations, the period(s) during which the services will be provided, and the Client's responsibilities. A CFP® professional is responsible for implementing, monitoring, and updating the Financial Planning recommendation(s) unless specifically excluded from the Scope of Engagement.
- c. **Updating Information.** A CFP® professional has an ongoing obligation to provide to the Client any information that is a Material change or update to the information required to be provided to the Client. Material changes and updates to public disciplinary history or bankruptcy information must be disclosed to the Client within ninety days, together with the location(s) of the relevant webpages.

The Agreement may consist of multiple written documents. Written documentation that includes the items above and is used by a certificant or certificant's employer in compliance with state or federal law, or the rules or regulations of any applicable self-regulatory organization, such as the Securities and Exchange Commission's Form ADV or other disclosure documents, shall satisfy the requirements of this Rule.

**Rule 2.2** A certificant shall disclose to a prospective client or client the following information:

- a. An accurate and understandable description of the compensation arrangements being offered. This description must include:
  - Information related to costs and compensation to the certificant and/or the certificant's employer, and
  - Terms under which the certificant and/or the certificant's employer may receive any other sources of compensation, and if so, what the sources of these payments are and on what they are based.
- b. A general summary of likely conflicts of interest between the client and the certificant, the certificant's employer or any affiliates or third parties, including, but not limited to, information about any familial, contractual or agency relationship of the certificant or the certificant's employer that has a potential to materially affect the relationship.
- c. Any information about the certificant or the certificant's employer that could reasonably be expected to materially affect the client's decision to engage the certificant that the client might reasonably want to know in establishing the scope and nature of the relationship, including but not limited to information about the certificant's areas of expertise.
- d. Contact information for the certificant and, if applicable, the certificant's employer.
- e. If the services include financial planning or material elements of financial planning, these disclosures must be in writing. The written disclosures may consist of multiple written documents. Written disclosures used by a certificant or certificant's employer that includes the items listed above, and are used in compliance with state or federal laws, or the rules or requirements of any applicable self-

regulatory organization, such as the Securities and Exchange Commission's Form ADV or other disclosure documents, shall satisfy the requirements of this Rule.

The certificant shall timely disclose to the client any material changes to the above information.

**Practice Standard 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:

1. Identifying the service(s) to be provided;
2. Disclosing the practitioner's material conflict(s) of interest;
3. Disclosing the practitioner's compensation arrangement(s);
4. Determining the client's and the practitioner's responsibilities;
5. 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.

## 11. DUTIES WHEN COMMUNICATING WITH A CLIENT

A CFP® professional must provide a Client with accurate information, in accordance with the Engagement, and in response to reasonable Client requests, in a manner and format that a Client reasonably may be expected to understand.

## 12. DUTIES WHEN REPRESENTING COMPENSATION METHOD

A CFP® professional may not make false or misleading representations regarding the CFP® professional's or the CFP® Professional's Firm's method(s) of compensation.

### a. Specific Representations

- i. **Fee-Only.** A CFP® professional may represent his or her compensation method as "fee-only" only if:
  - a. The CFP® professional and the CFP® Professional's Firm receive no Sales-Related Compensation; and
  - b. Related Parties receive no Sales-Related Compensation in connection with any Professional Services the CFP® professional or the CFP® Professional's Firm provides to Clients.
- ii. **Fee-Based.** CFP Board uses the term "fee and commission" to describe the compensation method of those who receive both fees and Sales-Related Compensation. A CFP® professional who represents that his or her or the CFP® Professional's Firm's compensation method is "fee-based" or any other similar term that is not fee-only:
  - a. May not use the term in a manner that suggests the CFP® professional or the CFP® Professional's Firm is fee-only; and
  - b. Must clearly state that either the CFP® professional or the CFP® Professional's Firm earns fees and commissions, or that the CFP® professional or the CFP® Professional's Firm are not fee-only.

- b. **Sales-Related Compensation.** Sales-Related Compensation is more than a de minimis economic benefit, including any bonus or portion of compensation, resulting from a Client purchasing or selling Financial Assets, from a Client holding Financial

**Rule 2.1** A certificant shall not communicate, directly or indirectly, to clients or prospective clients any false or misleading information directly or indirectly related to the certificant's professional qualifications or services. A certificant shall not mislead any parties about the potential benefits of the certificant's service. A certificant shall not fail to disclose or otherwise omit facts where that disclosure is necessary to avoid misleading clients.

**Terminology:** "Fee-only." A certificant may describe his or her practice as "fee-only" if, and only if, all of the certificant's compensation from all of his or her client work comes exclusively from the clients in the form of fixed, flat, hourly, percentage or performance-based fees.

Assets for purposes other than receiving Financial Advice, or from the referral of a Client to any person or entity other than the CFP® Professional's Firm. Sales-Related Compensation includes, for example, commissions, trailing commissions, 12b-1 fees, spreads, transaction fees, revenue sharing, referral or solicitor fees, or similar consideration. Sales-Related Compensation does not include:

- i. Soft dollars (any research or other benefits received in connection with Client brokerage that qualifies for the "safe harbor" of Section 28(e) of the Securities Exchange Act of 1934);
  - ii. Reasonable and customary fees for custodial or similar administrative services if the fee or amount of the fee is not determined based on the amount or value of Client transactions;
  - iii. Non-monetary benefits provided by another service provider, including a custodian, that benefit the CFP® professional's Clients by improving the CFP® professional's delivery of Professional Services, and that are not determined based on the amount or value of Client transactions;
  - iv. Reasonable and customary fees for Professional Services, other than for solicitations and referrals, the CFP® professional or CFP® Professional's Firm provides to a Client that are collected and distributed by another service provider, including under a Turnkey Asset Management Platform; or
  - v. A fee the Related Party solicitor receives for soliciting clients for the CFP® professional or the CFP® Professional's Firm.
- c. **Related Party.** A person or business entity (including a trust) whose receipt of Sales-Related Compensation a reasonable CFP® professional would view as directly or indirectly benefiting the CFP® professional or the CFP® Professional's Firm, including, for example, as a result of the CFP® professional's ownership stake in the business entity. There is a rebuttable presumption that a Related Party includes:
- i. Family Members. A member of the CFP® professional's Family and any business entity that the Family or members of the Family Control; and

**Terminology:** "Commission" denotes the compensation generated from a transaction involving a product or service and received by an agent or broker, usually calculated as a percentage on the amount of his or her sales or purchase transactions. This includes 12(b)1 fees, trailing commissions, surrender charges and contingent deferred sales charges.

**Terminology:** "Compensation" is any non-trivial economic benefit, whether monetary or non-monetary, that a certificant or related party receives or is entitled to receive for providing professional activities.

- ii. Business Entities. A business entity that the CFP® professional or the CFP® Professional's Firm Controls, or that is Controlled by or is under common Control with, the CFP® Professional's Firm.
- d. **In Connection with any Professional Services.** Sales-Related Compensation received by a Related Party is "in connection with any Professional Services" if it results, directly or indirectly, from Client transactions referred or facilitated by the CFP® professional or the CFP® Professional's Firm.
- e. **Safe Harbor for Related Parties.** Sales-Related Compensation received by a Related Party is not "in connection with any Professional Services" if the CFP® professional or the CFP® Professional's Firm adopts and implements policies and procedures reasonably designed to prevent the CFP® professional or the CFP® Professional's Firm from recommending that any Client purchase Financial Assets from or through, or refer any Clients to, the Related Party.
- f. **Misrepresentations by a CFP® Professional's Firm.** A CFP® professional who Controls the CFP® Professional's Firm may not allow the CFP® Professional's Firm to make a representation of compensation method that would be false or misleading if made by the CFP® professional. A CFP® professional who does not Control the CFP® Professional's Firm must correct a CFP® Professional's Firm's misrepresentations of compensation method by accurately representing the CFP® professional's compensation method to the CFP® professional's Clients.

### 13. DUTIES WHEN RECOMMENDING, ENGAGING, AND WORKING WITH ADDITIONAL PERSONS

- a. When engaging or recommending the selection or retention of additional persons to provide financial or Professional Services for a Client, a CFP® professional must:
  - i. Have a reasonable basis for the recommendation or Engagement based on the person's reputation, experience, and qualifications;
  - ii. Disclose to the Client, at the time of the recommendation or prior to the Engagement, any arrangement by which someone who is not the Client

No equivalent in Current Standards.

- will compensate or provide some other material economic benefit to the CFP® professional, the CFP® Professional's Firm, or a Related Party for the recommendation or Engagement; and
- iii. When engaging a person to provide services for a Client, exercise reasonable care to protect the Client's interests.
- b. When working with another financial or Professional Services provider on behalf of a Client, a CFP® professional must:
    - i. Communicate with the other provider about the scope of their respective services and the allocation of responsibility between them; and
    - ii. Inform the Client in a timely manner if the CFP® professional has a reasonable belief that the other provider's services were not performed in accordance with the scope of services to be provided and the allocation of responsibilities.

#### **14. DUTIES WHEN SELECTING, USING, AND RECOMMENDING TECHNOLOGY**

- a. A CFP® professional must exercise reasonable care and judgment when selecting, using, or recommending any software, digital advice tool, or other technology while providing Professional Services to a Client.
- b. A CFP® professional must have a reasonable level of understanding of the assumptions and outcomes of the technology employed.
- c. A CFP® professional must have a reasonable basis for believing that the technology produces reliable, objective, and appropriate outcomes.

#### **15. REFRAIN FROM BORROWING OR LENDING MONEY AND COMMINGLING FINANCIAL ASSETS**

- a. A CFP® professional may not, directly or indirectly, borrow money from or lend money to a Client unless:
  - i. The Client is a member of the CFP® professional's Family; or
  - ii. The lender is a business organization or legal entity in the business of lending money.
- b. A CFP® professional may not commingle a Client's Financial Assets with the Financial Assets of the CFP® professional or the CFP® Professional's Firm.

No equivalent in Current Standards.

**Rule 3.8** A certificant shall not commingle a client's property with the property of the certificant or the certificant's employer, unless the commingling is permitted by law or is explicitly authorized and defined in a written agreement between the parties.

**Rule 3.9** A certificant shall not commingle a client's property with other clients' property unless the commingling is permitted by law or the certificant has both explicit written authorization to do so from each client involved and sufficient record-keeping to track each client's assets accurately.

## B. FINANCIAL PLANNING AND APPLICATION OF THE PRACTICE STANDARDS FOR THE FINANCIAL PLANNING PROCESS

1. **Financial Planning Definition.** Financial Planning is a collaborative process that helps maximize a Client's potential for meeting life goals through Financial Advice that integrates relevant elements of the Client's personal and financial circumstances.

2. **Examples of Relevant Elements of the Client's Personal and Financial Circumstances.** Relevant elements of personal and financial circumstances vary from Client to Client, and may include the Client's need for or desire to: develop goals, manage assets and liabilities, manage cash flow, identify and manage risks, identify and manage the financial effect of health considerations, provide for educational needs, achieve financial security, preserve or increase wealth, identify tax considerations, prepare for retirement, pursue philanthropic interests, and address estate and legacy matters.

**Rule 3.6** A certificant shall not borrow money from a client. Exceptions to this Rule include:

- a. The client is a member of the certificant's immediate family, or
- b. The client is an institution in the business of lending money and the borrowing is unrelated to the professional services performed by the certificant.

**Rule 3.7** A certificant shall not lend money to a client. Exceptions to this Rule include:

- a. The client is a member of the certificant's immediate family, or
- b. The certificant is an employee of an institution in the business of lending money and the money lent is that of the institution, not the certificant.

**Terminology:** "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. Financial planning integrates the financial planning process with the financial planning subject areas.

[Portion of the definition removed and referenced below]

Financial planning may occur even if the material elements are not provided to a client simultaneously, are delivered over a period of time, or are delivered as distinct subject areas. It is not necessary to provide a written financial plan to engage in financial planning.

**Terminology:** "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)
- Insurance planning and risk management
- Employee benefits planning
- Investment planning
- Income tax planning
- Retirement planning
- Estate planning



3. **Application of Practice Standards.** The Practice Standards set forth the financial planning process. A CFP® professional must comply with the Practice Standards when:

- a. The CFP® professional agrees to provide or provides (i) Financial Planning; or (ii) Financial Advice that requires integration of relevant elements of the Client's personal and/or financial circumstances in order to act in the Client's best interest ("Financial Advice that Requires Financial Planning"); or
- b. The Client has a reasonable basis to believe the CFP® professional will provide or has provided Financial Planning.

4. **Integration Factors.** Among the factors that CFP Board will weigh in determining whether a CFP® professional has agreed to provide or provided Financial Advice that Requires Financial Planning are:

- a. The number of relevant elements of the Client's personal and financial circumstances that the Financial Advice may affect;
- b. The portion and amount of the Client's Financial Assets that the Financial Advice may affect;
- c. The length of time the Client's personal and financial circumstances may be affected by the Financial Advice;
- d. The effect on the Client's overall exposure to risk if the Client implements the Financial Advice; and
- e. The barriers to modifying the actions taken to implement the Financial Advice.

### Description of Practice Standards

...Compliance with the Practice Standards is mandatory for certificants whose services include financial planning or material elements of financial planning...

### Compliance with Practice Standards

The practice of financial planning consistent with these Practice Standards is required for certificants who are financial planning practitioners. The Practice Standards are used by CFP Board's Disciplinary and Ethics Commission and Appeals Committee in evaluating the certificant's conduct to determine if any provision of the Standards of Professional Conduct have been violated, based on the Disciplinary Rules established by CFP Board.

**Terminology:** "Personal financial planning process" or "financial planning process" denotes the process which typically includes, but is not limited to, some or all of these six steps:

- Establishing and defining the client-planner relationship,
- Gathering client data including goals,
- Analyzing and evaluating the client's current financial status,
- Developing and presenting recommendations and/or alternatives,
- Implementing the recommendations, and
- Monitoring the recommendations.

**Terminology:** "Personal financial planning" or "financial planning" ...In determining whether the certificant is providing financial planning or material elements of financial planning, factors that may be considered include, but are not limited to:

- The client's understanding and intent in engaging the certificant.
- The degree to which multiple financial planning subject areas are involved.
- The comprehensiveness of data gathering.
- The breadth and depth of recommendations.

[Portion of the definition removed and referenced above]

5. **CFP Board Evaluation.** In a disciplinary proceeding in which a CFP® professional denies CFP Board's allegation that the CFP® professional was required to comply with the Practice Standards, the CFP® professional must demonstrate that compliance with the Practice Standards was not required.

No equivalent in Current Standards.

6. **No Client Agreement to Engage for Financial Planning.** If a CFP® professional otherwise must comply with the Practice Standards, but the Client does not agree to engage the CFP® professional to provide Financial Planning, the CFP® professional must either:

No equivalent in Current Standards.

- a. Not enter into the Engagement;
- b. Limit the Scope of Engagement to services that do not require application of the Practice Standards, and describe to the Client the services the Client requests that the CFP® professional will not be performing;
- c. Provide the requested services after informing the Client how Financial Planning would benefit the Client and how the decision not to engage the CFP® professional to provide Financial Planning may limit the CFP® professional's Financial Advice, in which case the CFP® professional is not required to comply with the Practice Standards; or
- d. Terminate the Engagement.

## C. PRACTICE STANDARDS FOR THE FINANCIAL PLANNING PROCESS

In complying with the Practice Standards, a CFP® professional must act prudently in documenting information, as the facts and circumstances require, taking into account the significance of the information, the need to preserve the information in writing, the obligation to act in the Client's best interest, and the CFP® Professional's Firm's policies and procedures.

### 1. Understanding the Client's Personal and Financial Circumstances

- a. **Obtaining Qualitative and Quantitative Information.** A CFP® professional must describe to the Client the qualitative and quantitative information concerning the Client's personal and financial circumstances needed to fulfill the Scope of Engagement and collaborate with the Client to obtain the information.
  - i. Examples of qualitative or subjective information include the Client's health, life expectancy, family circumstances, values, attitudes, expectations, earnings potential, risk tolerance, goals, needs, priorities, and current course of action.
  - ii. Examples of quantitative or objective information include the Client's age, dependents, other professional advisors, income, expenses, cash flow, savings, assets, liabilities, available resources, liquidity, taxes, employee benefits, government benefits, insurance coverage, estate plans, education and retirement accounts and benefits, and capacity for risk.
- b. **Analyzing Information.** A CFP® professional must analyze the qualitative and quantitative information to assess the Client's personal and financial circumstances.
- c. **Addressing Incomplete Information.** If unable to obtain information necessary to fulfill the Scope of Engagement, the CFP® professional must either limit the Scope of Engagement to those services the CFP® professional is able to provide or terminate the Engagement.

## GATHERING CLIENT DATA

### Practice Standard 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.

**Rule 3.3** A certificant shall obtain the information necessary to fulfill his or her obligations. If a certificant cannot obtain the necessary information, the certificant shall inform the prospective client or client of any and all material deficiencies.

## 2. Identifying and Selecting Goals

- a. **Identifying Potential Goals.** A CFP® professional must discuss with the Client the CFP® professional's assessment of the Client's financial and personal circumstances, and help the Client identify goals, noting the effect that selecting a particular goal may have on other goals. In helping the Client identify goals, the CFP® professional must discuss with the Client, and apply, reasonable assumptions and estimates. These may include life expectancy, inflation rates, tax rates, investment returns, and other Material assumptions and estimates.
- b. **Selecting and Prioritizing Goals.** A CFP® professional must help the Client select and prioritize goals. The CFP® professional must discuss with the Client any goals the Client has selected that the CFP® professional believes are not realistic.

### **Practice Standard 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.

### 3. Analyzing the Client's Current Course of Action and Potential Alternative Course(s) of Action

- a. **Analyzing Current Course of Action.** A CFP® professional must analyze the Client's current course of action, including the material advantages and disadvantages of the current course and whether the current course maximizes the potential for meeting the Client's goals.
- b. **Analyzing Potential Alternative Courses of Action.** Where appropriate, a CFP® professional must consider and analyze one or more potential alternative courses of action, including their material advantages and disadvantages of each alternative, whether each alternative helps maximize the potential for meeting the Client's goals, and how each alternative integrates the relevant elements of the Client's personal and financial circumstances.

### Analyzing and Evaluating the Client's Financial Status Practice Standard 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.

### Practice Standard 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

#### 4. Developing the Financial Planning Recommendation(s)

From the potential courses of action, a CFP® professional must select one or more recommendations designed to maximize the potential for meeting the Client's goals. The recommendation may be to continue the Client's current course of action. For each recommendation selected, the CFP® professional must consider the following information:

- a. The assumptions and estimates used to develop the recommendation;
- b. The basis for making the recommendation, including how the recommendation is designed to maximize the potential to meet the Client's goals, the anticipated material effects of the recommendation on the Client's financial and personal circumstances, and how the recommendation integrates relevant elements of the Client's personal and financial circumstances;
- c. The timing and priority of the recommendation; and
- d. Whether the recommendation is independent or must be implemented with another recommendation.

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.

#### Practice Standard 400-2: Developing the Financial Planning Recommendation(s)

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.

## 5. Presenting the Financial Planning Recommendation(s)

A CFP® professional must present to the Client the selected recommendations and the information that was required to be considered when developing the recommendation(s).

### Practice Standard 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.

## 6. Implementing the Financial Planning Recommendation(s)

- a. **Addressing Implementation Responsibilities.** A CFP® professional must establish with the Client whether the CFP® professional has implementation responsibilities. When the CFP® professional has implementation responsibilities, the CFP® professional must communicate to the Client the recommendation(s) being implemented and the responsibilities of the CFP® professional, the Client, and any third-party with respect to implementation.
- b. **Identifying, Analyzing, and Selecting Actions, Products, and Services.** A CFP® professional who has implementation responsibilities must identify and analyze actions, products, and services designed to implement the recommendations. The CFP® professional must consider the basis for each selection, which must include:
  - i. How the action, product, or service is designed to implement the CFP® professional's recommendation; and
  - ii. The advantages and disadvantages of the action, product, or service relative to reasonably available alternatives.
- c. **Recommending Actions, Products, and Services for Implementation.** A CFP® professional who has implementation responsibilities must recommend one or more actions, products, and services to the Client. The CFP® professional must discuss with the Client the basis for selecting an action, product, or service, the timing and priority of implementing the action, product, or service, and disclose and manage any Material Conflicts of Interest concerning the action, product, or service.
- d. **Selecting and Implementing Actions, Products, or Services.** A CFP® professional who has implementation responsibilities must help the Client select and implement the actions, products, or services. The CFP® professional must discuss with the Client any Client selection that deviates from the actions, products, and services the CFP® professional recommended.

## Practice Standard 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.

## Practice Standard 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.

## 7. Monitoring Progress and Updating

### a. **Monitoring and Updating Responsibilities.**

A CFP® professional must establish with the Client whether the CFP® professional has monitoring and updating responsibilities. When the CFP® professional has responsibilities for monitoring and updating, the CFP® professional must communicate to the Client:

- i. Which actions, products, and services are and are not subject to the CFP® professional's monitoring responsibility;
- ii. How and when the CFP® professional will monitor the actions, products, and services;
- iii. The Client's responsibility to inform the CFP® professional of any Material changes to the Client's qualitative and quantitative information;
- iv. The CFP® professional's responsibility to update the financial planning recommendations; and
- v. How and when the CFP® professional will update the financial planning recommendations.

### b. **Monitoring the Client's Progress.**

A CFP® professional who has monitoring responsibilities must analyze, at appropriate intervals, the progress toward achieving the Client's goals. The CFP® professional must review with the Client the results of the CFP® professional's analysis.

### c. **Obtaining Current Qualitative and Quantitative Information.**

A CFP® professional who has monitoring responsibility must collaborate with the Client in an attempt to obtain current qualitative and quantitative information concerning the Client's personal and financial circumstances.

### d. **Updating Goals, Recommendations, or Implementation Decisions.**

Where a CFP® professional has updating responsibility, and circumstances warrant changes to the Client's goals, recommendations, or selections of actions, products or services, the CFP® professional must update as appropriate in accordance with these *Practice Standards*.

## **Practice Standard 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 reinstate steps of the financial planning process. The current scope of the engagement may need to be modified.

**D. DUTIES OWED TO FIRMS AND SUBORDINATES****1. Use Reasonable Care When Supervising**

A CFP® professional must exercise reasonable care when supervising persons acting under the CFP® professional's direction, including employees and other persons over whom the CFP® professional has responsibility, with a view toward preventing violations of applicable laws, rules, regulations, and these *Standards*.

**2. Comply with Lawful Objectives of CFP® Professional's Firm**

A CFP® professional:

- a. Will be subject to discipline by CFP Board for violating policies and procedures of the CFP® Professional's Firm that do not conflict with these *Standards*.
- b. Will not be subject to discipline by CFP Board for violating policies and procedures of the CFP® Professional's Firm that conflict with these *Standards*.

**3. Provide Notice of Public Discipline**

A CFP® professional must promptly advise the CFP® Professional's Firm, in writing, of any public discipline imposed by CFP Board.

**Rule 4.6** A certificant shall provide reasonable and prudent professional supervision or direction to any subordinate or third party to whom the certificant assigns responsibility for any client services.

**Rule 5.1** A certificant who is an employee/agent shall perform professional services with dedication to the lawful objectives of the employer/principal and in accordance with CFP Board's Code of Ethics.

**Rule 5.2** A certificant who is an employee/agent shall advise his or her current employer/principal of any certification suspension or revocation he or she receives from CFP Board.

**E. DUTIES OWED TO CFP BOARD**

1. **Definitions.** The following definitions apply:

- a. **Felony.** A felony offense, or for jurisdictions that do not differentiate between a felony and a misdemeanor, an offense punishable by a sentence of at least one-year imprisonment or a fine of at least \$1,000.
- b. **Relevant Misdemeanor.** A criminal offense, that is not a Felony, for conduct involving fraud, theft, misrepresentation, other dishonest conduct, crimes of moral turpitude, violence, or a second (or more) alcohol and/or drug-related offense.
- c. **Regulatory Investigation.** An investigation initiated by a federal, state, local, or foreign governmental agency, self-regulatory organization, or other regulatory authority. A Regulatory Investigation does not include preliminary or routine regulatory inquiries or requests for information, deficiency letters, “blue sheet” requests or other trading questionnaires, or examinations.
- d. **Regulatory Action.** An action initiated by a federal, state, local, or foreign governmental agency, self-regulatory organization, or other regulatory authority.
- e. **Civil Action.** A lawsuit or arbitration.
- f. **Finding.** A finding includes an adverse final action and a consent decree in which the finding is neither admitted nor denied, but does not include a deficiency letter, examination report, memorandum of understanding, or similar informal resolution of a matter.
- g. **Minor Rule Violation.** A violation of a self-regulatory organization rule designated as a minor rule violation under a plan approved by the U.S. Securities and Exchange Commission. A rule violation may be designated as “minor” under a plan if the sanction imposed consists of a fine of \$2,500 or less, and if the sanctioned person does not contest the fine.

No equivalent in Current Standards.

2. **Refrain from Adverse Conduct.** A CFP® professional may not engage in conduct that reflects adversely on his or her integrity or fitness as a CFP® professional, upon the CFP® marks, or upon the profession. Such conduct includes, but is not limited to, conduct that results in:
- a. A Felony or Relevant Misdemeanor conviction, or admission into a program that defers or withholds the entry of a judgment of conviction for a Felony or Relevant Misdemeanor;
  - b. A Finding in a Regulatory Action or a Civil Action that the CFP® professional engaged in fraud, theft, misrepresentation, or other dishonest conduct;
  - c. A personal bankruptcy or business bankruptcy filing or adjudication where the CFP® professional was a Control Person of the business, unless the CFP® professional can rebut the presumption that the bankruptcy demonstrates an inability to manage responsibly the CFP® professional's or the business's financial affairs;
  - d. A federal tax lien on property owned by the CFP® professional, unless the CFP® professional can rebut the presumption that the federal tax lien demonstrates an inability to manage responsibly the CFP® professional's financial affairs; or
  - e. A non-federal tax lien, judgment lien, or civil judgment that has not been satisfied within a reasonable amount of time unless the CFP® professional can rebut the presumption that the non-federal tax lien, judgment lien, or civil judgment demonstrates an inability to manage responsibly the CFP® professional's financial affairs.

3. **Reporting.** A CFP® professional must provide written notice to CFP Board within 30 calendar days after the CFP® professional, or an entity over which the CFP® professional was a Control Person, has:
- a. Been charged with, convicted of, or admitted into a program that defers or withholds the entry of a judgment or conviction for, a Felony or Relevant Misdemeanor;

**Rule 6.5** A certificant shall not engage in conduct which reflects adversely on his or her integrity or fitness as a certificant, upon the CFP® marks, or upon the profession.

**Rule 6.4** A certificant shall notify CFP Board in writing of any conviction of a crime, except misdemeanor traffic offenses or traffic ordinance violations unless such offense involves the use of alcohol or drugs, or of any professional suspension or bar within ten (10) calendar days after the date on which the certificant is notified of the conviction, suspension or bar.

- b. Been named as a subject of, or whose conduct is mentioned adversely in, a Regulatory Investigation or Regulatory Action alleging failure to comply with the laws, rules, or regulations governing Professional Services;
- c. Had conduct mentioned adversely in a Finding in a Regulatory Action involving failure to comply with the laws, rules, or regulations governing Professional Services (except a Regulatory Action involving a Minor Rule Violation in a Regulatory Action brought by a self-regulatory organization);
- d. Had conduct mentioned adversely in a Civil Action alleging failure to comply with the laws, rules, or regulations governing Professional Services;
- e. Become aware of an adverse arbitration award or civil judgment, or a settlement agreement, in a Civil Action alleging failure to comply with the laws, rules, or regulations governing Professional Services, where the conduct of the CFP® professional, or an entity over which the CFP® professional was a Control Person, was mentioned adversely, other than a settlement for an amount less than \$15,000;
- f. Had conduct mentioned adversely in a Civil Action alleging fraud, theft, misrepresentation, or other dishonest conduct;
- g. Been the subject of a Finding of fraud, theft, misrepresentation, or other dishonest conduct in a Regulatory Action or Civil Action;
- h. Become aware of an adverse arbitration award or civil judgment, or a settlement agreement in a Civil Action alleging fraud, theft, misrepresentation, or other dishonest conduct, where the conduct of the CFP® professional, or an entity over which the CFP® professional was a Control Person, was mentioned adversely;
- i. Had a professional license, certification, or membership suspended, revoked, or materially restricted because of a violation of rules or standards of conduct;
- j. Been terminated for cause from employment or permitted to resign in lieu of termination when the cause of the termination or resignation involved allegations of dishonesty, unethical conduct, or compliance failures;

- k. Been named as the subject of, or been identified as the broker/adviser of record in, any written, customer-initiated complaint that alleged the CFP® professional was involved in:
  - i. Forgery, theft, misappropriation, or conversion of Financial Assets;
  - ii. Sales practice violations and contained a claim for compensation of \$5,000 or more; or
  - iii. Sales practice violations and settled for an amount of \$15,000 or more.
- l. Filed for or been the subject of a personal bankruptcy or business bankruptcy where the CFP® professional was a Control Person;
- m. Received notice of a federal tax lien on property owned by the CFP® professional; or
- n. Failed to satisfy a non-federal tax lien, judgment lien, or civil judgment within one year of its date of entry, unless payment arrangements have been agreed upon by all parties.

4. **Provide Narrative Statement.** The written notice must include a narrative statement that accurately and completely describes the Material facts and the outcome or status of the reportable matter.

5. **Cooperation.** A CFP® professional may not make false or misleading representations to CFP Board or obstruct CFP Board in the performance of its duties. A CFP® professional must satisfy the cooperation requirements set forth in CFP Board's *Procedural Rules*, including by cooperating fully with CFP Board's requests, investigations, disciplinary proceedings, and disciplinary decisions.

6. **Compliance with Terms and Conditions of Certification and License.** A CFP® professional must comply with the Terms and Conditions of Certification and License.

## F. PROHIBITION ON CIRCUMVENTION

A CFP® professional may not do indirectly, or through or by another person or entity, any act or thing that the Code and Standards prohibit the CFP® professional from doing directly.

No equivalent in Current Standards.

**Rule 6.1** A certificant shall abide by the terms of all agreements with CFP Board, including, but not limited to, using the CFP® marks properly and cooperating fully with CFP Board's trademark and professional review operations and requirements.

No equivalent in Current Standards.

**GLOSSARY**

**CFP® Professional's Firm(s):** Any entity on behalf of which a CFP® professional provides Professional Services to a Client, and that has the authority to exercise control over the CFP® professional's activities, including the CFP® professional's employer, broker-dealer, registered investment adviser, insurance company, and insurance agency.

**Client:** Any person, including a natural person, business organization, or legal entity, to whom the CFP® professional provides or agrees to provide Professional Services pursuant to an Engagement.

**Conflict of Interest:** (a) When a CFP® professional's interests (including the interests of the CFP® Professional's Firm) are adverse to the CFP® professional's duties to a Client, or (b) When a CFP® professional has duties to one Client that are adverse to another Client.

**Control:** The power, directly or indirectly, to direct the management or policies of the entity at the relevant time, through ownership, by contract, or otherwise.

**Control Person:** A person who has Control.

**Engagement:** An oral or written agreement, arrangement, or understanding.

**Family:** Grandparent, parent, stepparent, father-in-law/mother-in-law, uncle/aunt, spouse, former spouse, spousal equivalent, domestic partner, brother/sister, stepsibling, brother-in-law/sister-in-law, cousin, son/daughter, stepchild, son-in-law/daughter-in-law, nephew/niece, grandchild, and any other person the CFP® professional, directly or indirectly, supports financially to a material extent.

**Terminology:** "Certificant's Employer" denotes any person or entity that employs a certificant or registrant to provide services to a third party on behalf of the employer, including certificants and registrants who are retained as independent contractors or agents.

**Terminology:** "Client" denotes a person, persons, or entity who engages a certificant and for whom professional services are rendered. Where the services of the certificant are provided to an entity (corporation, trust, partnership, estate, etc.), the client is the entity acting through its legally authorized representative

**Terminology:** A "conflict of interest" exists when a certificant's financial, business, property and/or personal interests, relationships or circumstances reasonably may impair his/her ability to offer objective advice, recommendations or services.

No equivalent in Current Standards.

No equivalent in Current Standards.

**Terminology:** A "financial planning engagement" exists when a certificant performs any type of mutually

No equivalent in Current Standards.



**Financial Advice:**

- A. A communication that, based on its content, context, and presentation, would reasonably be viewed as a recommendation that the Client take or refrain from taking a particular course of action with respect to:
1. The development or implementation of a financial plan;
  2. The value of or the advisability of investing in, purchasing, holding, gifting, or selling Financial Assets;
  3. Investment policies or strategies, portfolio composition, the management of Financial Assets, or other financial matters;
  4. The selection and retention of other persons to provide financial or Professional Services to the Client; or
- B. The exercise of discretionary authority over the Financial Assets of a Client.

The determination of whether Financial Advice has been provided is an objective rather than subjective inquiry. The more individually tailored the communication is to the Client, the more likely the communication will be viewed as Financial Advice. The provision of services or the furnishing or making available of marketing materials, general financial education materials, or general financial communications that a reasonable CFP® professional would not view as Financial Advice, does not constitute Financial Advice.

**Financial Assets:** Securities, insurance products, real estate, bank instruments, commodities contracts, derivative contracts, collectibles, or other financial products.

No equivalent in Current Standards.

No equivalent in Current Standards.

**Financial Planning:** A collaborative process that helps maximize a Client's potential for meeting life goals through Financial Advice that integrates relevant elements of the Client's personal and financial circumstances.

**Material:** Information is material when a reasonable Client or prospective Client would consider the information important in making a decision.

**Professional Services:** Financial Advice and related activities and services that are offered or provided, including, but not limited to, Financial Planning, legal, accounting, or business planning services.

**Terminology:** "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. Financial planning integrates the financial planning process with the financial planning subject areas.

In determining whether the certificant is providing financial planning or material elements of financial planning, factors that may be considered include, but are not limited to:

- The client's understanding and intent in engaging the certificant.
- The degree to which multiple financial planning subject areas are involved.
- The comprehensiveness of data gathering.
- The breadth and depth of recommendations.

Financial planning may occur even if the material elements are not provided to a client simultaneously, are delivered over a period of time, or are delivered as distinct subject areas. It is not necessary to provide a written financial plan to engage in financial planning.

No equivalent in Current Standards.

No equivalent in Current Standards.

**Related Party:** A person or business entity (including a trust) whose receipt of Sales-Related Compensation a reasonable CFP® professional would view as benefiting the CFP® professional or the CFP® Professional's Firm, including, for example, as a result of the CFP® professional's ownership stake in the business entity. There is a rebuttable presumption that a Related Party includes:

- a. **Family Members.** A member of the CFP® professional's Family and any business entity that the Family or members of the Family Control; and
- b. **Business Entities.** A business entity that the CFP® professional or the CFP® Professional's Firm Controls, or that is Controlled by or is under common Control with, the CFP® Professional's Firm.

**Scope of Engagement:** The Professional Services to be provided pursuant to an Engagement.

No equivalent in Current Standards.

No equivalent in Current Standards.

No equivalent in Proposed Code and Standards.

**Terminology:** “CFP Board” denotes Certified Financial Planner Board of Standards, Inc.

**Terminology:** “Candidate for CFP® certification” denotes a person who has applied to CFP Board to take the CFP® Certification Examination, but who has not yet met all of CFP Board’s certification requirements.

**Terminology:** “Certificant” denotes individuals who are currently certified by CFP Board.

**Terminology:** A “financial planning practitioner” is a person who provides financial planning services to clients.

**Terminology:** “Professional Eligible for Reinstatement” (PER) denotes an individual who is not currently certified but has been certified by CFP Board in the past and has an entitlement, direct or indirect, to use the CFP® marks. This includes individuals who have relinquished their certification and who are eligible for reinstatement without being required to pass the current CFP® Certification Examination. The Standards of Professional Conduct apply to PERs when the conduct at issue occurred at a time when the PER was certified; CFP Board has jurisdiction to investigate such conduct.

**Rule 3.4** A certificant shall clearly identify the assets, if any, over which the certificant will take custody, exercise investment discretion, or exercise supervision.

**Rule 3.5** A certificant 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 certificant.

**Rule 3.10** A certificant shall return a client’s property to the client upon request as soon as practicable or consistent with a time frame specified in an agreement with the client.

**Rule 6.3** A certificant shall notify CFP Board of changes to contact information, including, but not limited to, e-mail address, telephone number(s) and physical address, within forty five (45) days.





CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

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