

**CFP BOARD**

**STANDARDS OF  
PROFESSIONAL CONDUCT**



**STANDARDS OF  
PROFESSIONAL CONDUCT**



THE CERTIFICATION MARK ABOVE IS OWNED BY CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC. IN THE UNITED STATES AND IS AWARDED TO INDIVIDUALS WHO SUCCESSFULLY COMPLETE CFP BOARD'S INITIAL AND ONGOING CERTIFICATION REQUIREMENTS.



## INTRODUCTION

### CFP BOARD'S STANDARDS OF PROFESSIONAL CONDUCT

Certified Financial Planner Board of Standards, Inc. (CFP Board) is a certification and standards-setting organization founded in 1985 that benefits the public by establishing and enforcing education, examination, experience and ethics requirements for CFP® certificants. CFP Board has exclusive authority to determine who may use the CFP®, CERTIFIED FINANCIAL PLANNER™, and **CFP** certification marks (the CFP® marks) in the United States. CFP Board conditions the permission it grants individuals to use these marks on their agreement to abide by certain terms and conditions specified by CFP Board, including those set forth below.

As part of the CFP® certification process and the terms and conditions imposed upon certificants and Professionals Eligible for Reinstatement (PER), CFP Board maintains professional standards necessary for competency and ethics in the financial planning profession. Through its *Code of Ethics and Professional Responsibility (Code of Ethics)*, CFP Board identifies the ethical principles certificants and PERs should meet in all of their professional activities. Through its *Rules of Conduct*, CFP Board establishes binding professional and ethical norms that protect the public and advance professionalism. CFP Board's *Financial Planning Practice Standards (Practice Standards)* describe the best practices expected of certificants engaged in financial planning and refer to those sections of the *Rules of Conduct* that provide ethical guidance. Through its *Disciplinary Rules and Procedures (Disciplinary Rules)*, CFP Board enforces the *Code of Ethics*, *Rules of Conduct*, and *Practice Standards* and establishes a process for applying the *Standards of Professional Conduct* to actual professional activities.

CFP Board's predecessor organization, the International Board of Standards and Practices for Certified Financial Planners (IBCFP) introduced the first *Code of Ethics* in 1985. Revisions were made in 1988, including the introduction of the first *Disciplinary Rules and Procedures*. The next major revision, in 1993, established the Principles and Rules of the *Code of Ethics*. The Board of Practice Standards began work on the *Practice Standards* in 1995 and the standards were first published in 1999. The *Practice Standards* were finalized in 2002. This revision of the *Code of Ethics*, *Rules of Conduct* and *Practice Standards* began in 2005 and took effect July 1, 2008.

This booklet describes CFP Board's *Standards of Professional Conduct*, which include the *Code of Ethics*, *Rules of Conduct*, *Practice Standards*, *Disciplinary Rules*, *Appeals Rules and Procedures*, and *Fitness Standards for Candidates and Professionals Eligible for Reinstatement*.

#### CODE OF ETHICS

CFP Board adopted the *Code of Ethics* to establish the highest principles and standards. These Principles are general statements expressing the ethical and professional ideals certificants and PERs are expected to display in their professional activities. As such, the Principles are aspirational in character and provide a source of guidance for certificants and PERs. The Principles form the basis of CFP Board's *Rules of Conduct*, *Practice Standards* and *Disciplinary Rules*, and these documents together reflect CFP Board's recognition of certificants' and PERs' responsibilities to the public, clients, colleagues and employers.

#### RULES OF CONDUCT

The *Rules of Conduct* establish the high standards expected of certificants and describe the level of professionalism required of certificants. The *Rules of Conduct* are binding on all certificants, regardless of their title, position, type of employment or method of compensation, and they govern all those who have the right to use the CFP® marks, whether or not those marks are actually used. The universe of activities engaged in by a certificant is diverse, and a certificant may perform all, some or none of the typical services provided by financial planning professionals. Some Rules may not be applicable to a certificant's specific activity. As a result, when considering the *Rules of*

*Conduct*, the certificant must determine whether a specific Rule is applicable to those services. A certificant will be deemed to be in compliance with these Rules if that certificant can demonstrate that his or her employer completed the required action.

Violations of the *Rules of Conduct* may subject a certificant to discipline. Because CFP Board is a certifying and standards-setting body for those individuals who have met and continue to meet CFP Board's initial and ongoing certification requirements, discipline extends to the rights of certificants to use the CFP® marks. Thus, the *Rules of Conduct* are not designed to be a basis for legal liability to any third party.

### **PRACTICE STANDARDS**

The *Practice Standards* describe best practices of financial planning professionals providing professional services related to the six elements of the financial planning process. Each Standard is a statement relating to an element of the financial planning process, followed by an explanation of the Standard and its relationship to the *Code of Ethics* and *Rules of Conduct*. CFP Board developed the *Practice Standards* to advance professionalism in financial planning and enhance the value of the financial planning process, for the ultimate benefit of consumers of financial planning services.

### **DISCIPLINARY RULES**

The *Disciplinary Rules* describe the procedures followed by CFP Board in enforcing the *Rules of Conduct*. The *Disciplinary Rules* provide a fair process pursuant to which certificants are given notice of potential violations and an opportunity to be heard by a panel of other professionals.

### **APPEAL RULES**

The *Appeal Rules and Procedures* govern the procedure of appeals from orders of the Disciplinary and Ethics Commission (DEC) of Certified Financial Planner Board of Standards, Inc. and appeals from Administrative Orders issued by CFP Board Counsel.

### **FITNESS STANDARDS FOR CANDIDATES AND PROFESSIONALS ELIGIBLE FOR REINSTATEMENT**

The *Fitness Standards* describe the specific character and fitness standards for candidates for certification and PERs to ensure an individual's conduct does not reflect adversely upon the profession or the CFP® certification marks.

## TABLE OF CONTENTS

### SECTION 1

- 8 TERMINOLOGY IN THIS BOOKLET

### SECTION 2

- 10 *CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY*

### SECTION 3

- 12 *RULES OF CONDUCT*

### SECTION 4

- 18 *FINANCIAL PLANNING PRACTICE STANDARDS*

### SECTION 5

- 29 *DISCIPLINARY RULES AND PROCEDURES*

### SECTION 6

- 45 *APPEAL RULES AND PROCEDURES*

### SECTION 7

- 53 *FITNESS STANDARDS FOR CANDIDATES AND PROFESSIONALS ELIGIBLE FOR REINSTATEMENT*

#### REVISIONS IN THIS EDITION OF CFP BOARD'S STANDARDS OF PROFESSIONAL CONDUCT INCLUDE:

- Amendments to CFP Board's *Disciplinary Rules and Procedures* adopted in January 2013. Details about the amendments are available on CFP Board's website at: [www.CFP.net/standards](http://www.CFP.net/standards)
- Amendments to CFP Board's *Appeal Rules and Procedures* adopted in January 2013. Details about the amendments are available on CFP Board's website at: [www.CFP.net/standards](http://www.CFP.net/standards)
- Amendments to the *Fitness Standards for Candidates and Professionals Eligible for Reinstatement* (formerly *Candidate Fitness Standards*) adopted in September 2012. The amendments included granting the Disciplinary and Ethics Commission the authority to allow a candidate/Professional Eligible for Reinstatement to re-apply for CFP® certification at some future date.

# TERMINOLOGY IN THIS BOOKLET

**THIS TERMINOLOGY APPLIES ONLY FOR PURPOSES OF INTERPRETING AND/OR ENFORCING CFP BOARD'S CODE OF ETHICS, RULES OF CONDUCT, PRACTICE STANDARDS AND DISCIPLINARY RULES.**

- “*CFP Board*” denotes Certified Financial Planner Board of Standards, Inc.
- “*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.
- “*Certificant*” denotes an individual who is currently certified by CFP Board.
- “*Certificant’s Employer*” denotes any person or entity that employs a certificant or PER to provide services to a third party on behalf of the employer, including certificants and PERs who are retained as independent contractors or agents.
- “*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.
- “*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.
- “*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.
- 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.
- “*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.
- “*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.
- A “*financial planning engagement*” exists when a certificant performs any type of mutually agreed upon financial planning service for a client.



- A “*financial planning practitioner*” is a person who provides financial planning services to clients.
- “*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:
  1. The client’s understanding and intent in engaging the certificant;
  2. The degree to which multiple financial planning subject areas are involved;
  3. The comprehensiveness of data gathering; and
  4. 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.

- “*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:
  1. Establishing and defining the client-planner relationship;
  2. Gathering client data including goals;
  3. Analyzing and evaluating the client’s current financial status;
  4. Developing and presenting recommendations and/or alternatives;
  5. Implementing the recommendations; and
  6. Monitoring the recommendations.

- “*Personal financial planning subject areas*” or “*financial planning subject areas*” denotes the basic subject fields covered in the financial planning process which typically include, but are not limited to:
  1. Financial statement preparation and analysis (including cash flow analysis/ planning and budgeting);
  2. Insurance planning and risk management;
  3. Employee benefits planning;
  4. Investment planning;
  5. Income tax planning;
  6. Retirement planning; and
  7. Estate planning.
- “*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.

# 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.

## 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.

## 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.

## 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.

## 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.

## 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.

## 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.



# RULES OF CONDUCT

## 1. DEFINING THE RELATIONSHIP WITH THE PROSPECTIVE CLIENT OR CLIENT

- 13 RULE 1.1
- 13 RULE 1.2
- 13 RULE 1.3
- 14 RULE 1.4

## 2. INFORMATION DISCLOSED TO PROSPECTIVE CLIENTS AND CLIENTS

- 14 RULE 2.1
- 14 RULE 2.2

## 3. PROSPECTIVE CLIENT AND CLIENT INFORMATION AND PROPERTY

- 14 RULE 3.1
- 14 RULE 3.2
- 14 RULE 3.3
- 15 RULE 3.4
- 15 RULE 3.5
- 15 RULE 3.6
- 15 RULE 3.7
- 15 RULE 3.8
- 15 RULE 3.9
- 15 RULE 3.10

## 4. OBLIGATIONS TO PROSPECTIVE CLIENTS AND CLIENTS

- 15 RULE 4.1
- 15 RULE 4.2
- 15 RULE 4.3
- 15 RULE 4.4
- 15 RULE 4.5
- 15 RULE 4.6
- 15 RULE 4.7

## 5. OBLIGATIONS TO EMPLOYERS

- 15 RULE 5.1
- 15 RULE 5.2

## 6. OBLIGATIONS TO CFP BOARD

- 16 RULE 6.1
- 16 RULE 6.2
- 16 RULE 6.3
- 16 RULE 6.4
- 16 RULE 6.5

## RULES OF CONDUCT

*The Rules of Conduct establish the high standards expected of certificants and describe the level of professionalism required of certificants. The Rules of Conduct are binding on all certificants, regardless of their title, position, type of employment or method of compensation, and they govern all those who have the right to use the CFP® marks, whether or not those marks are actually used. The universe of activities engaged in by a certificant is diverse, and a certificant may perform all, some or none of the typical services provided by financial planning professionals. Some Rules may not be applicable to a certificant's specific activity. As a result, when considering the Rules of Conduct, the certificant must determine whether a specific Rule is applicable to those services. A certificant will be deemed to be in compliance with these Rules if that certificant can demonstrate that his or her employer completed the required action.*

*Violations of the Rules of Conduct may subject a certificant or Professional Eligible for Reinstatement (PER) to discipline. Because CFP Board is a certifying and standards-setting body for those individuals who have met and continue to meet CFP Board's initial and ongoing certification requirements, discipline extends to the rights of PERs and certificants to use the CFP® marks. Thus, the Rules are not designed to be a basis for legal liability to any third party.*

### 1. DEFINING THE RELATIONSHIP WITH THE PROSPECTIVE CLIENT OR CLIENT

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

**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.

If the certificant provides the above information in writing, the certificant shall encourage the prospective client or client to review the information and offer to answer any questions that the prospective client or client may have.

**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.

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.

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.

## 2. INFORMATION DISCLOSED TO PROSPECTIVE CLIENTS AND CLIENTS

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.

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:

1. Information related to costs and compensation to the certificant and/or the certificant's employer, and
2. 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.

## 3. PROSPECTIVE CLIENT AND CLIENT INFORMATION AND PROPERTY

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.

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.

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.

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

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.

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.

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.

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.

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.

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.

## 4. OBLIGATIONS TO PROSPECTIVE CLIENTS AND CLIENTS

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

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.

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

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

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.

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.

4.7 A certificant shall advise his or her current clients of any certification suspension or revocation he or she receives from CFP Board.

## 5. OBLIGATIONS TO EMPLOYERS

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*.

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.

## 6. OBLIGATIONS TO CFP BOARD

**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.

**6.2** A certificant shall meet all CFP Board requirements, including continuing education requirements, to retain the right to use the CFP® marks.

**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.

**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.

**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.





# FINANCIAL PLANNING PRACTICE STANDARDS

19 STATEMENT OF PURPOSE FOR *FINANCIAL PLANNING PRACTICE STANDARDS*

19 HISTORY OF *PRACTICE STANDARDS*

19 DESCRIPTION OF *PRACTICE STANDARDS*

20 FORMAT OF *PRACTICE STANDARDS*

20 COMPLIANCE WITH *PRACTICE STANDARDS*

**100 SERIES: ESTABLISHING AND DEFINING THE RELATIONSHIP WITH THE CLIENT**

20 100-1 DEFINING THE SCOPE OF THE ENGAGEMENT

**200 SERIES: GATHERING CLIENT DATA**

21 200-1 DETERMINING A CLIENT'S PERSONAL AND FINANCIAL GOALS,  
NEEDS AND PRIORITIES

22 200-2 OBTAINING QUANTITATIVE INFORMATION AND DOCUMENTS

**300 SERIES: ANALYZING AND EVALUATING THE CLIENT'S FINANCIAL STATUS**

23 300-1 ANALYZING AND EVALUATING THE CLIENT'S INFORMATION

**400 SERIES: DEVELOPING AND PRESENTING THE FINANCIAL  
PLANNING RECOMMENDATION(S)**

24 PREFACE TO THE 400 SERIES

24 400-1 IDENTIFYING AND EVALUATING FINANCIAL PLANNING ALTERNATIVE(S)

25 400-2 DEVELOPING THE FINANCIAL PLANNING RECOMMENDATION(S)

25 400-3 PRESENTING THE FINANCIAL PLANNING RECOMMENDATION(S)

**500 SERIES: IMPLEMENTING THE FINANCIAL PLANNING RECOMMENDATION(S)**

26 500-1 AGREEING ON IMPLEMENTATION RESPONSIBILITIES

27 500-2 SELECTING PRODUCTS AND SERVICES FOR IMPLEMENTATION

**600 SERIES: MONITORING**

28 600-1 DEFINING MONITORING RESPONSIBILITIES

## STATEMENT OF PURPOSE FOR FINANCIAL PLANNING PRACTICE STANDARDS

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

These *Practice Standards* are intended to:

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

## HISTORY OF PRACTICE STANDARDS

CFP Board is a professional certification and standards-setting organization founded in 1985 to benefit the public by establishing and enforcing education, examination, experience and ethics requirements for CFP® professionals. Through its certification process, CFP Board established fundamental criteria necessary for competency in the financial planning profession.

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

## DESCRIPTION OF PRACTICE STANDARDS

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

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

The *Practice Standards* are designed to provide certificants with a framework for the professional practice of financial planning. Similar to the *Rules of Conduct*, the *Practice Standards* are not designed to be a basis for legal liability to any third party.

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

FINANCIAL PLANNING PROCESS	RELATED <i>PRACTICE STANDARD</i>
1. Establishing and defining the relationship with a client	100-1 Defining the Scope of the Engagement
2. Gathering client data	200-1 Determining a Client's Personal and Financial Goals, Needs and Priorities
3. Analyzing and evaluating the client's financial status	300-1 Analyzing and Evaluating the Client's Information
4. Developing and presenting financial planning recommendations	400-1 Identifying and Evaluating Financial Planning Alternative(s)
	400-2 Developing the Financial Planning Recommendation(s)
	400-3 Presenting the Financial Planning Recommendation(s)
5. Implementing the financial planning recommendations	500-1 Agreeing on Implementation Responsibilities
	500-2 Selecting Products and Services for Implementation
6. Monitoring	600-1 Defining Monitoring Responsibilities

## FORMAT OF THE *PRACTICE STANDARDS*

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

The Explanation accompanying each *Practice Standard* explains and illustrates the meaning and purpose of the *Practice Standard*. The text of each *Practice Standard* is authoritative and directive. The related Explanation is a guide to interpretation and application of the *Practice Standard* based, where indicated, on a standard of reasonableness, a recurring theme throughout the *Practice Standard*. The Explanation is not intended to establish a professional standard or duty beyond what is contained in the *Practice Standard* itself.

## COMPLIANCE WITH THE *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* has been violated, based on the *Disciplinary Rules* established by CFP Board.

## ESTABLISHING AND DEFINING THE RELATIONSHIP WITH THE CLIENT

### 100-1: DEFINING THE SCOPE OF THE ENGAGEMENT

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

**EXPLANATION OF THIS PRACTICE STANDARD**

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

This process is accomplished in financial planning engagements by:

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
6. 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.

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

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

**EFFECTIVE DATE**

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

**RELATIONSHIP OF THIS PRACTICE STANDARD TO CFP BOARD’S CODE OF ETHICS AND RULES OF CONDUCT**

This *Practice Standard* relates to CFP Board’s *Code of Ethics* and *Rules of Conduct* through Principle 4 – Fairness, Principle 7 – Diligence and Rules 1.1, 1.2, 1.3 and 2.2.

**ANTICIPATED IMPACT OF THIS PRACTICE STANDARD****UPON THE PUBLIC**

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

**UPON THE FINANCIAL PLANNING PROFESSION**

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

**UPON THE FINANCIAL PLANNING PRACTITIONER**

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

**GATHERING CLIENT DATA****200-1: DETERMINING A CLIENT’S PERSONAL AND FINANCIAL GOALS, NEEDS AND PRIORITIES**

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

**EXPLANATION OF THIS PRACTICE STANDARD**

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

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

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

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

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

#### **EFFECTIVE DATE**

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

#### **RELATIONSHIP OF THIS PRACTICE STANDARD TO CFP BOARD'S CODE OF ETHICS AND RULES OF CONDUCT**

This *Practice Standard* relates to CFP Board's *Code of Ethics and Rules of Conduct* through Principle 7 - Diligence and Rules 3.3, 4.4 and 4.5.

#### **ANTICIPATED IMPACT OF THIS PRACTICE STANDARD**

##### **UPON THE PUBLIC**

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

#### **UPON THE FINANCIAL PLANNING PROFESSION**

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

#### **UPON THE FINANCIAL PLANNING PRACTITIONER**

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

#### **200-2: OBTAINING QUANTITATIVE INFORMATION AND DOCUMENTS**

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

#### **EXPLANATION OF THIS PRACTICE STANDARD**

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

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

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

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

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

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

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

#### EFFECTIVE DATE

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

#### RELATIONSHIP OF THIS PRACTICE STANDARD TO CFP BOARD'S CODE OF ETHICS AND RULES OF CONDUCT

This *Practice Standard* relates to CFP Board's *Code of Ethics and Rules of Conduct* through Principle 7 – Diligence and Rules 3.3, 4.4 and 4.5.

#### ANTICIPATED IMPACT OF THIS PRACTICE STANDARD

##### UPON THE PUBLIC

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

##### UPON THE FINANCIAL PLANNING PROFESSION

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

##### UPON THE FINANCIAL PLANNING PRACTITIONER

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

## ANALYZING AND EVALUATING THE CLIENT'S FINANCIAL STATUS

### 300-1: ANALYZING AND EVALUATING THE CLIENT'S INFORMATION

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

#### EXPLANATION OF THIS PRACTICE STANDARD

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

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

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

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

## EFFECTIVE DATE

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

## RELATIONSHIP OF THIS PRACTICE STANDARD TO CFP BOARD'S CODE OF ETHICS AND RULES OF CONDUCT

This *Practice Standard* relates to CFP Board's *Code of Ethics* and *Rules of Conduct* through Principle 2 - Objectivity, Principle 3 - Competence, Principle 7 - Diligence and Rules 1.4, 4.1, 4.4 and 4.5.

## ANTICIPATED IMPACT OF THIS PRACTICE STANDARD

### UPON THE PUBLIC

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

### UPON THE FINANCIAL PLANNING PROFESSION

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

### UPON THE FINANCIAL PLANNING PRACTITIONER

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

## DEVELOPING AND PRESENTING THE FINANCIAL PLANNING RECOMMENDATION(S)

### PREFACE TO THE 400 SERIES

The 400 Series, "Developing and Presenting the Financial Planning Recommendation(s)," represents the very heart of financial planning. It is at this point

that the financial planning practitioner, using both science and art, formulates the recommendations designed to achieve the client's goals, needs and priorities. Experienced financial planning practitioners may view this process as one action or task. However, in reality, it is a series of distinct but interrelated tasks.

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

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

### 400-1: IDENTIFYING AND EVALUATING FINANCIAL PLANNING ALTERNATIVE(S)

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

### EXPLANATION OF THIS PRACTICE STANDARD

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

This evaluation may involve, but is not limited to, considering multiple assumptions, conducting



research or consulting with other professionals. This process may result in a single alternative, multiple alternatives or no alternative to the client's current course of action.

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

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

#### EFFECTIVE DATE

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

#### RELATIONSHIP OF THIS PRACTICE STANDARD TO CFP BOARD'S CODE OF ETHICS AND RULES OF CONDUCT

This *Practice Standards* relates to CFP Board's *Code of Ethics* and *Rules of Conduct* through Principle 2 – Objectivity, Principle 3 – Competence, Principle 6 – Professionalism, Principle 7 – Diligence and Rules 1.4, 4.1 and 4.5.

#### 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.

#### EFFECTIVE DATE

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

#### RELATIONSHIP OF THIS PRACTICE STANDARD TO CFP BOARD'S CODE OF ETHICS AND RULES OF CONDUCT

This *Practice Standard* relates to CFP Board's *Code of Ethics* and *Rules of Conduct* through Principle 2 – Objectivity, Principle 3 – Competence, Principle 6 – Professionalism, Principle 7 – Diligence and Rules 1.4, 4.1 and 4.5.

#### 400-3: PRESENTING THE FINANCIAL PLANNING RECOMMENDATION(S)

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

### EXPLANATION OF THIS PRACTICE STANDARD

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

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

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

The practitioner should indicate that even though the recommendations may meet the client's goals, needs and priorities, changes in personal and economic conditions could alter the intended outcome. Changes may include, but are not limited to: legislative, family status, career, investment performance and/or health.

If there are conflicts of interest that have not been previously disclosed, such conflicts and how they may impact the recommendations should be addressed at this time.

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

### EFFECTIVE DATE

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

### RELATIONSHIP OF THIS PRACTICE STANDARD TO CFP BOARD'S CODE OF ETHICS AND RULES OF CONDUCT

This *Practice Standard* relates to CFP Board's *Code of Ethics* and *Rules of Conduct* through Principle 1 - Integrity, Principle 2 - Objectivity, Principle 6 - Professionalism and Rules 2.1, 4.1, 4.4 and 4.5.

### ANTICIPATED IMPACT OF THESE PRACTICE STANDARDS

#### UPON THE PUBLIC

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

#### UPON THE FINANCIAL PLANNING PROFESSION

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

#### UPON THE FINANCIAL PLANNING PRACTITIONER

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

### IMPLEMENTING THE FINANCIAL PLANNING RECOMMENDATION(S)

#### 500-1: AGREEING ON IMPLEMENTATION RESPONSIBILITIES

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

#### EXPLANATION OF THIS PRACTICE STANDARD

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

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

- Identifying activities necessary for implementation;
- Determining division of activities between the practitioner and the client;
- Referring to other professionals;
- Coordinating with other professionals;
- Sharing of information as authorized; and
- Selecting and securing products and/or services.

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

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

If the practitioner is engaged by the client to provide only implementation activities, the scope of the engagement shall be mutually defined in accordance with *Practice Standard 100-1*. This scope may include such matters as the extent to which the practitioner will rely on information, analysis or recommendations provided by others.

#### EFFECTIVE DATE

January 1, 2002.

#### RELATIONSHIP OF THIS PRACTICE STANDARD TO CFP BOARD'S CODE OF ETHICS AND RULES OF CONDUCT

This *Practice Standard* relates to CFP Board's *Code of Ethics and Rules of Conduct* through Principle 3 - Competence, Principle 4 - Fairness, Principle 6 - Professionalism, Principle 7 - Diligence and Rules 1.2, 2.2, 4.1 and 4.4.

#### 500-2: SELECTING PRODUCTS AND SERVICES FOR IMPLEMENTATION

*The financial planning practitioner shall select*

*appropriate products and services that are consistent with the client's goals, needs and priorities.*

#### EXPLANATION OF THIS PRACTICE STANDARD

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

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

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

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

The practitioner shall make all disclosures required by applicable regulations.

#### EFFECTIVE DATE

January 1, 2002.

#### RELATIONSHIP OF THIS PRACTICE STANDARD TO CFP BOARD'S CODE OF ETHICS AND RULES OF CONDUCT

This *Practice Standard* relates to CFP Board's *Code of Ethics and Rules of Conduct* through Principle 2 - Objectivity, Principle 4 - Fairness, Principle 6 - Professionalism, Principle 7 - Diligence and Rules 1.2, 1.4, 2.2, 4.1, 4.4 and 4.5.

#### ANTICIPATED IMPACT OF THESE PRACTICE STANDARDS

##### UPON THE PUBLIC

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

#### UPON THE FINANCIAL PLANNING PROFESSION

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

#### UPON THE FINANCIAL PLANNING PRACTITIONER

In the selection of products and services, putting the interest of the client first benefits the practitioner over the long-term.

### MONITORING

#### 600-1: DEFINING MONITORING RESPONSIBILITIES

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

#### EXPLANATION OF THIS PRACTICE STANDARD

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

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

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

#### EFFECTIVE DATE

January 1, 2002.

#### RELATIONSHIP OF THIS PRACTICE STANDARD TO CFP BOARD'S CODE OF ETHICS AND RULES OF CONDUCT

This *Practice Standard* relates to CFP Board's *Code of Ethics* and *Rules of Conduct* through Principle 7 - Diligence and Rules 1.2, 3.3, 3.4 and 4.1.

#### ANTICIPATED IMPACT OF THIS PRACTICE STANDARD

##### UPON THE PUBLIC

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

##### UPON THE FINANCIAL PLANNING PROFESSION

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

##### UPON THE FINANCIAL PLANNING PRACTITIONER

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

# DISCIPLINARY RULES AND PROCEDURES

EFFECTIVE JANUARY 1, 2013

## 31 ARTICLE 1: INTRODUCTION

## ARTICLE 2: DISCIPLINARY AND ETHICS COMMISSION

- 32 2.1 FUNCTION AND JURISDICTION OF THE DEC
- 32 2.2 POWERS AND DUTIES OF THE DEC
- 32 2.3 POWERS AND DUTIES OF THE CEO OF CFP BOARD
- 32 2.4 HEARING PANEL
- 32 2.5 DISQUALIFICATION
- 33 2.6 CFP BOARD COUNSEL
- 33 2.7 VENUE

## 33 ARTICLE 3: GROUNDS FOR DISCIPLINE

## ARTICLE 4: FORMS OF DISCIPLINE

- 34 4.1 PRIVATE CENSURE
- 34 4.2 PUBLIC LETTER OF ADMONITION
- 34 4.3 SUSPENSION
- 34 4.4 REVOCATION

## ARTICLE 5: INTERIM SUSPENSION STATUS

- 34 5.1 ISSUANCE OF A SHOW CAUSE ORDER
- 34 5.2 SERVICE
- 34 5.3 RESPONSE
- 34 5.4 FAILURE TO RESPOND TO THE ORDER TO SHOW CAUSE
- 35 5.5 SHOW CAUSE HEARING
- 35 5.6 INTERIM SUSPENSION
- 35 5.7 AUTOMATIC INTERIM SUSPENSION
- 35 5.8 PROCEEDINGS SUBSEQUENT TO INTERIM SUSPENSIONS
- 35 5.9 AUTOMATIC REINSTATEMENT UPON REVERSAL OF CONVICTION  
OR PROFESSIONAL DISCIPLINE

## ARTICLE 6: INVESTIGATION

- 36 6.1 COMMENCEMENT
- 36 6.2 PROCEDURES FOR INVESTIGATION
- 36 6.3 PROBABLE CAUSE DETERMINATION PROCEDURES
- 36 6.4 DISPOSITION
- 37 6.5 RELINQUISHMENT

## ARTICLE 7: COMPLAINT - ANSWER - DEFAULT

- 37 7.1 COMPLAINT
- 37 7.2 SERVICE OF THE COMPLAINT
- 37 7.3 ANSWER
- 37 7.4 DEFAULT AND ADMINISTRATIVE ORDERS OF REVOCATION
- 37 7.5 REQUEST FOR APPEARANCE
- 37 7.6 REQUEST FOR EXTENSION OR CONTINUANCE

## ARTICLE 8: DISCOVERY AND EVIDENCE

- 8.1 DISCOVERY
- 8.2 DOCUMENTS
- 8.3 WITNESSES
- 8.4 RESPONDENT'S COUNSEL
- 8.5 ADMINISTRATIVE DISMISSAL

## ARTICLE 8: DISCOVERY AND EVIDENCE

- 38 9.1 MOTION
- 38 9.2 RESPONSE
- 38 9.3 LENGTH
- 38 9.4 DISPOSITION OF A MOTION

## ARTICLE 10: HEARINGS

- 39 10.1 NOTICE
- 39 10.2 DESIGNATION OF A HEARING PANEL
- 39 10.3 PROCEDURE AND PROOF
- 39 10.4 RECOMMENDATION

## ARTICLE 11: REPORT, FINDINGS OF FACT AND RECOMMENDATION

- 39 11.1 RECOMMENDATION OF THE HEARING PANEL
- 39 11.2 POWER OF THE DEC

## 39 ARTICLE 12: APPEALS

## ARTICLE 13: CONVICTION OF A CRIME OR PROFESSIONAL DISCIPLINE

- 40 13.1 PROOF OF CONVICTION OR PROFESSIONAL DISCIPLINE
- 40 13.2 DUTY TO REPORT CRIMINAL CONVICTION OR PROFESSIONAL DISCIPLINE
- 40 13.3 COMMENCEMENT OF DISCIPLINARY PROCEEDINGS UPON NOTICE OF  
CONVICTION OR PROFESSIONAL DISCIPLINE
- 40 13.4 DEFINITION OF PROFESSIONAL DISCIPLINE

## ARTICLE 14: SETTLEMENT PROCEDURE

- 40 14.1 OFFER OF SETTLEMENT
- 41 14.2 ACCEPTANCE OF OFFER
- 41 14.3 REJECTION OF OFFER; COUNTER OFFER

## 41 ARTICLE 15: REQUIRED ACTION AFTER REVOCATION OR SUSPENSION

### ARTICLE 16: REINSTATEMENT AFTER DISCIPLINE

- 41 16.1 REINSTATEMENT AFTER REVOCATION
- 42 16.2 REINSTATEMENT AFTER SUSPENSION
- 42 16.3 INVESTIGATION
- 42 16.4 SUCCESSIVE PETITIONS
- 42 16.5 REINSTATEMENT FEE

### ARTICLE 17: CONFIDENTIALITY OF PROCEEDINGS

- 42 17.1 CONFIDENTIALITY
- 43 17.2 EXCEPTIONS TO CONFIDENTIALITY



### ARTICLE 18: GENERAL PROVISIONS

- 43 18.1 QUORUM
- 43 18.2 NOTICE AND SERVICE
- 43 18.3 SUBMISSIONS
- 43 18.4 COSTS
- 43 18.5 ELECTRONIC SIGNATURE
- 43 18.6 PUBLICATION
- 44 18.7 ANONYMOUS CASE HISTORIES AND SANCTION GUIDELINES

## ARTICLE 1: INTRODUCTION

Certified Financial Planner Board of Standards, Inc. (“CFP Board”) has adopted the *Code of Ethics and Professional Responsibility* (“*Code of Ethics*”), *Rules of Conduct*, and *Financial Planning Practice Standards* (“*Practice Standards*”), which establish the expected level of professional conduct and practice for CFP® professionals. CFP Board has also established the *Fitness Standards for Candidates and Professionals Eligible for Reinstatement* (“*Fitness Standards*”), which apply to candidates for CFP® certification and individuals who were previously certified and are eligible to reinstate the CFP® certification (“Professionals Eligible for Reinstatement”).

The *Code of Ethics*, *Rules of Conduct*, *Practice Standards*, *Disciplinary Rules and Procedures* (“*Disciplinary Rules*”) and *Fitness Standards* may be amended from time to time, with revisions submitted to the public for comment before final adoption by CFP Board. To promote and maintain

the integrity of its CFP®, CERTIFIED FINANCIAL PLANNER™,  and  certification marks (“the marks”) for the benefit of the clients and potential clients of CFP® professionals, CFP Board has the ability to enforce the provisions of the *Code of Ethics*, *Rules of Conduct* and *Practice Standards*. Adherence to the *Code of Ethics* and *Rules of Conduct* and compliance with the *Practice Standards* by CFP® professionals is required, with the potential for CFP Board sanctions against those who violate the regulations contained in these documents. CFP Board will follow the *Disciplinary Rules* set forth below when enforcing the *Code of Ethics*, *Rules of Conduct* and *Practice Standards* for CFP® professionals and enforcing the *Fitness Standards*.

Hereafter, CFP® professionals, candidates for CFP® certification and Professionals Eligible for Reinstatement may be referred to as “Respondent” or “Respondents.”

## ARTICLE 2: DISCIPLINARY AND ETHICS COMMISSION

### 2.1: FUNCTION AND JURISDICTION OF THE DEC

CFP Board's Disciplinary and Ethics Commission (referred to herein as "the DEC"), formed pursuant to and governed by the bylaws of CFP Board, is charged with the duty of reviewing and taking appropriate action with respect to alleged violations of the *Code of Ethics* and *Rules of Conduct*, alleged non-compliance with the *Practice Standards* and conduct reviewed pursuant to the *Fitness Standards*. The DEC shall have original jurisdiction over all such matters as defined in the DEC Charter.

### 2.2: POWERS AND DUTIES OF THE DEC

The DEC shall be required to:

- A. Evaluate the performance of the volunteers during the hearings;
- B. Report annually to the Chief Executive Officer and Board of Directors of CFP Board on the operation of the DEC;
- C. Provide input to the CEO on the selection of prospective DEC members. The DEC Chair and Chair-Designee shall provide input to the CEO on the selection of prospective volunteers who serve temporarily on a Hearing Panel;
- D. At its summer meeting each year, the DEC shall recommend to the CEO, subject to the CEO's appointment, the DEC Chair to serve during the following calendar year;
- E. Recommend to the CEO, as may be necessary and subject to review and approval of the Board of Directors, amendments to these *Disciplinary Rules*;
- F. Adopt rules or procedures, subject to review and approval of the CEO, as may be necessary to ensure that the hearings, ratification process and disciplinary decisions are fair to all participants; and
- G. Recommend to the CEO such other rules or procedures as may be necessary or appropriate.

### 2.3: POWERS AND DUTIES OF THE CEO OF CFP BOARD

The CEO shall be required to:

- A. Appoint the DEC Chair, members and volunteers of the DEC;
- B. Oversee the DEC to ensure it follows the established rules and procedures required to provide a fair process to all participants;
- C. Ensure that each Hearing Panel is comprised of individuals who act in an impartial and objective manner and have no conflicts of interest with the complainant or Respondent subject to the complaint;
- D. Conduct appropriate background investigations of prospective DEC members and volunteers; seek the input of the Board of Directors and the DEC on prospective DEC members; and seek the input of the DEC Chair and Chair-Designee on prospective volunteers; and
- E. Report to the Board of Directors the intended appointments to, and activities of, the DEC.

### 2.4: HEARING PANEL

The Hearing Panel shall consist of three persons, two of whom must be CFP® professionals. A Hearing Panel shall be comprised of two DEC members and one volunteer, unless circumstances make it impractical. One member of each Hearing Panel shall serve as Chair of each hearing. The Hearing Panel Chair must be a DEC member. The Chair shall rule on all motions, objections and other matters presented at, or prior to, a hearing.

### 2.5: DISQUALIFICATION

DEC members and volunteers shall not participate in any proceeding in which they, a member of their immediate family or a member of their firm have any interest or where such participation otherwise would involve a conflict of interest or the appearance of impropriety. A Respondent must identify any conflicts with potential Hearing Panel members in his or her Answer to CFP Board's Complaint. Failure to do so will result in the waiver of an objection to the Hearing Panel member. A Respondent may raise any conflicts arising after the filing of his/her answer with the



Hearing Panel at the start of the hearing and the Chair of the Hearing Panel shall make a ruling pursuant to Article 9.4.

**2.6: “CFP BOARD COUNSEL,” “CFP BOARD DESIGNATED COUNSEL” AND “CFP BOARD ADVISORY COUNSEL,” AND THE DUTIES THEREOF:**

- A. CFP Board Counsel refers to the staff attorney who:
  - 1. Conducts any investigation commenced under Article 6.1;
  - 2. Makes the probable cause determination under Article 6.3;
  - 3. Issues Administrative Orders of Revocation under Article 7.4; and
  - 4. Presents the case to the Hearing Panel as an advocate for CFP Board
- B. CFP Board Designated Counsel refers to the outside attorney who presents the case to the Hearing Panel as an advocate for CFP Board.
- C. CFP Board Advisory Counsel refers to the attorney who acts in an advisory capacity in providing advice on the *Standards of Professional Conduct* and hearing procedures to the Hearing Panel and the DEC during the Ratification Meeting.
- D. No person shall act as both CFP Board Counsel and CFP Board Advisory Counsel during the same set of hearings.

**2.7: VENUE**

Unless otherwise approved by the Board of Directors, CFP Board’s headquarters shall serve as a central office for the filing of requests for:

- A. the investigation of Respondent conduct;
- B. the coordination of such investigations;
- C. the administration of all disciplinary enforcement proceedings carried out pursuant to these *Disciplinary Rules*; and
- D. the performance of such other activities as are designated by the CEO.

**ARTICLE 3: GROUNDS FOR DISCIPLINE**

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

- A. Any act or omission that violates the provisions of the *Code of Ethics* and/or *Rules of Conduct*;
- B. Any act or omission that fails to comply with the *Practice Standards*;
- C. Any act or omission that violates the criminal laws of any State or of the United States or of any province, territory or jurisdiction of any other country, provided however, that conviction thereof in a criminal proceeding shall not be a prerequisite to the institution of disciplinary proceedings, and provided further, that acquittal in a criminal proceeding shall not bar a disciplinary action;
- D. Any act that is the proper basis for professional discipline, as defined herein, provided professional discipline shall not be a prerequisite to the institution of disciplinary proceedings, and provided further, that dismissal of charges in a professional discipline proceeding shall not necessarily bar a disciplinary action;
- E. Any act or omission that violates these *Disciplinary Rules* or that violates an order of discipline;
- F. Failure to respond to a request by CFP Board staff, or obstruction of the DEC, or any panel thereof, or CFP Board staff in the performance of its or their duties;
- G. Any false or misleading statement made to CFP Board.

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

## ARTICLE 4: FORMS OF DISCIPLINE

In cases where no grounds for discipline have been established, the DEC may dismiss the matter as either without merit or with a cautionary letter. In all cases, the DEC has the right to require the Respondent to complete additional continuing education or other remedial work, which includes, but is not limited to, completing the coursework required by a CFP Board-Registered Program. Such continuing education or remedial work may be ordered instead of, or in addition to, any discipline listed below. Where grounds for discipline have been established, any of the following forms of discipline may be imposed.

### 4.1: PRIVATE CENSURE

The DEC may order private censure of a Respondent, which shall be an unpublished written reproach mailed by the DEC to a censured Respondent.

### 4.2: PUBLIC LETTER OF ADMONITION

The DEC may order that a Public Letter of Admonition be issued against a Respondent, which shall be a publishable written reproach of the Respondent's behavior. It shall be standard procedure to publish the Public Letter of Admonition in a press release or in such other form of publicity selected by the DEC.

### 4.3: SUSPENSION

The DEC may order suspension for a specified period of time, not to exceed five years. In the event of a suspension, CFP Board must publish the fact of the suspension together with identification of the Respondent in a press release, or in such other form of publicity as is selected by the DEC. Respondents receiving a suspension may qualify for reinstatement to use the marks as provided in Article 15.

### 4.4: REVOCATION

The DEC may order permanent revocation of a Respondent's right to use the marks. In the event of a permanent revocation it shall be standard procedure to publish the fact of the revocation together with identification of the Respondent in a press release, or in such other form of publicity as is selected by the DEC.

## ARTICLE 5: INTERIM SUSPENSION STATUS

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

### 5.1: ISSUANCE OF A SHOW CAUSE ORDER

Although a CFP® professional's right to use the marks shall not ordinarily be suspended during the pendency of such proceedings, when CFP Board receives evidence that a CFP® professional has engaged in conduct: 1) that poses an immediate threat to the public; and 2) the gravity of the conduct significantly impinges upon the stature and reputation of the marks, CFP Board Counsel may issue an Order to Show Cause why the CFP® professional's right to use the marks should not be suspended during the pendency of the proceedings.

### 5.2: SERVICE

CFP Board shall serve the Order to Show Cause upon the CFP® professional as provided in Article 18.2.

### 5.3: RESPONSE

All responses to Orders to Show Cause shall be in writing and shall be submitted within 20 calendar days from the date of service of the Order to Show Cause upon the CFP® professional. Extensions and/or continuances are generally disfavored by CFP Board. CFP Board Counsel may, however, grant reasonable requests for extensions and continuances, as deemed appropriate. The CFP® professional shall, in the response, either request or waive the right to participate in the Show Cause Hearing.

### 5.4: FAILURE TO RESPOND TO THE ORDER TO SHOW CAUSE

If the CFP® professional fails to file a Response within the period provided in Article 5.3, the CFP® professional shall be deemed to have waived the right

to respond, the allegations set forth in the Order to Show Cause shall be deemed admitted and an interim suspension will automatically be issued.

#### 5.5: SHOW CAUSE HEARING

Upon receiving the CFP® professional's response as provided in Article 5.3, a hearing shall be scheduled as soon as practicable before a Hearing Panel consisting of three members of the DEC, generally no more than 40 days from the date of service of the Order to Show Cause. The CFP® professional shall have the opportunity to participate at such hearing presenting arguments and evidence on his/her behalf. All evidence presented must be submitted to CFP Board Counsel with the CFP® professional's Response to the Order to Show Cause in accordance with Article 5.3. Either party may make a motion at the hearing to admit evidence discovered by either party after the CFP® professional files a Response to the Order to Show Cause. The Chair of the Hearing Panel shall have the discretion to grant or deny the motion. CFP Board Counsel will provide the CFP® professional with the evidence submitted to the Hearing Panel prior to the Show Cause Hearing. In making its determination whether to issue an interim suspension, the Hearing Panel shall consider all of the evidence presented.

#### 5.6: INTERIM SUSPENSION

Upon a showing of any of the factors listed in Article 5.1, an interim suspension shall be issued, subject to review by the DEC under the provisions of Article 11.2, unless the Hearing Panel determines that the CFP® professional has provided evidence that establishes by a preponderance of the evidence that the CFP® professional does not pose an immediate threat to the public and that the gravity of the CFP® professional's conduct does not significantly impinge upon the stature and reputation of the marks. The fact that a CFP® professional is seeking appellate review of a conviction or professional discipline shall not limit the power of the Hearing Panel to impose an interim suspension.

#### 5.7: AUTOMATIC INTERIM SUSPENSION

An interim suspension shall immediately be issued without a hearing when CFP Board Counsel receives evidence of a conviction or a professional discipline

in accordance with Article 13.1 for any of the following conduct:

- A. Felony conviction for any crime;
- B. Misdemeanor conviction for fraud, misrepresentation or crimes of moral turpitude; or
- C. Revocation of a financial professional license (securities, insurance, accounting or bank-related license) unless the revocation is administrative in nature, i.e. the result of the individual determining to not renew the license by not paying the required fee and/or not completing the required continuing education.

CFP Board Counsel will notify any CFP® professional subject to interim suspension under this Article as provided in Article 18.2.

#### 5.8: PROCEEDINGS SUBSEQUENT TO INTERIM SUSPENSIONS

After the issuance of an interim suspension or an automatic interim suspension, CFP Board Counsel shall continue to investigate as outlined in Article 6. After CFP Board Counsel issues a Complaint, as outlined in Article 7, a CFP® professional will have the opportunity to be heard in accordance with the *Disciplinary Rules*. An Interim Suspension issued under this Article, however, is not subject to the CFP® professional's right of appeal as outlined in Article 12.

#### 5.9: AUTOMATIC REINSTATEMENT UPON REVERSAL OF CONVICTION OR PROFESSIONAL DISCIPLINE

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

## ARTICLE 6: INVESTIGATION

### 6.1: COMMENCEMENT

Proceedings involving potential ethics violations shall be commenced upon: 1) receipt of information by CFP Board Counsel indicating a potential violation of the *Code of Ethics, Rules of Conduct* and/or non-compliance with the *Practice Standards*; or 2) disclosure by a Respondent of any matter constituting a potential violation of the *Code of Ethics, Rules of Conduct* and/or non-compliance with the *Practice Standards*.

### 6.2: PROCEDURES FOR INVESTIGATION

Upon receipt of a request for investigation containing allegations which, if true, could give rise to a violation of the *Code of Ethics, Rules of Conduct* and/or non-compliance with the *Practice Standards*, or upon the acquisition by CFP Board Counsel of information which, if true, could give rise to a violation of the *Code of Ethics, Rules of Conduct* and/or non-compliance with the *Practice Standards*, CFP Board Counsel shall give written notice to the Respondent that the Respondent is under investigation and of the general nature of the allegations asserted against the Respondent. The Respondent shall have 30 calendar days from the date of notice of the investigation to file a written response to the allegations with the CFP Board.

- A. **No Response.** At the expiration of the 30 calendar-day period if no response has been received, CFP Board Counsel shall give written notice of a second request for information via certified mail. The Respondent shall have 20 calendar days from the date of the second request to file a written response to the allegations with CFP Board. At the expiration of the 20 calendar-day period if no response has been received, the matter shall be referred to the DEC.
- B. **Adverse Inference.** Failure to provide requested information may give rise to an adverse inference with respect to the underlying subject matter. An adverse inference is an inference, adverse to the

concerned party, drawn from silence or absence of requested evidence. This rule applies to evidence that has been destroyed, evidence that exists but the party refuses to produce, and evidence that the party has under his/her control and has not produced. This adverse inference is based upon the presumption that the party who controls the evidence would have produced it, if it had been supportive of his/her position.

- C. **Response.** Upon receipt of a response within the prescribed time period, CFP Board Counsel shall compile all documents and materials and commence probable cause determination procedures as soon thereafter as is reasonably practicable.

### 6.3: PROBABLE CAUSE DETERMINATION PROCEDURES

CFP Board Counsel or his/her designee shall be responsible for determining if there is probable cause to believe grounds for discipline exist and shall: 1) dismiss the allegations as not warranting further investigation at this time; 2) dismiss the allegations with a letter of caution indicating that CFP Board Counsel has determined that based on the available evidence, the Respondent's conduct may have violated the *Code of Ethics, Rules of Conduct* and/or not complied with the *Practice Standards* but does not warrant referral to the DEC; or 3) begin preparation and processing of a Complaint against the Respondent in accordance with Article 7. For matters that are dismissed, CFP Board reserves the right to reopen the investigation in the future if appropriate. When CFP Board Counsel issues a letter of caution, the Respondent may submit a letter in response to the letter of caution. The response letter will become part the Respondent's record, but will not receive any additional consideration by CFP Board Counsel. The letter of caution and the response to the letter of caution will be available for consideration by the DEC.

### 6.4: DISPOSITION

CFP Board Counsel shall conduct CFP Board's investigation as expeditiously as reasonably practicable.

**6.5: RELINQUISHMENT**

A Respondent may not voluntarily relinquish his/her CFP® certification during the course of an investigation.

**ARTICLE 7: COMPLAINT - ANSWER  
- DEFAULT****7.1: COMPLAINT**

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

**7.2: SERVICE OF THE COMPLAINT**

CFP Board Counsel shall promptly serve the Complaint upon the Respondent as provided in Article 18.2.

**7.3: ANSWER**

All Answers to Complaints shall be in writing. The Answer shall be submitted within 20 calendar days from the date of service of the Complaint on the Respondent. The Respondent shall file an original of such Answer with CFP Board. A copy of the Answer shall be included with the materials provided to the Hearing Panel in advance of the hearing. In the Answer, the Respondent shall respond to every material allegation contained in the Complaint. In addition, the Respondent shall set forth in the Answer any defenses or mitigating circumstances.

**7.4: DEFAULT AND ADMINISTRATIVE ORDERS OF REVOCATION**

If the Respondent fails to file an Answer within the period provided by Article 7.3 or fails to pay the hearing costs assessed by CFP Board pursuant to Article 18.3, except in cases where CFP Board Counsel has granted a waiver due to financial hardship, such Respondent shall be deemed to be in default, and the allegations set forth in the Complaint shall be deemed admitted. In such circumstance, CFP Board Counsel shall serve upon the Respondent an Administrative Order of Revocation. Such orders shall state clearly and with reasonable particularity the grounds for the

revocation of Respondent's right to use the marks. These orders are subject to the Respondent's right of appeal as outlined in Article 12.

**7.5: REQUEST FOR APPEARANCE**

Upon the filing of an Answer, the Respondent may request an appearance at the hearing before the Hearing Panel, at which the Respondent may present arguments, witnesses and evidence on his/her behalf. Alternatively, the Respondent may request a paper review in which the DEC will consider the Complaint and Answer as well as documents contained in CFP Board's files to make its decision. Neither CFP Board Counsel nor Respondent will be permitted to make an appearance or present witnesses.

**7.6: REQUEST FOR EXTENSION OR CONTINUANCE**

A Respondent may request an extension to answer the Complaint or a continuance of the hearing no later than within 20 calendar days from the date of service of the Complaint. Upon receipt of the request, CFP Board Counsel shall either grant or deny all requests for extension and continuances. Extensions and/or continuances are generally disfavored by CFP Board Counsel. CFP Board Counsel may, however, grant reasonable requests for extensions and continuances, as deemed appropriate. CFP Board Counsel shall not grant any extension to file an Answer to the Complaint longer than 14 calendar days. CFP Board Counsel shall not grant more than one continuance. If more than one continuance is requested, the matter shall proceed to the DEC for review of the hearing materials without appearances by CFP Board or the Respondent.

**ARTICLE 8: DISCOVERY AND EVIDENCE****8.1: DISCOVERY**

Discovery of a disciplinary case may be obtained only after a Complaint has been issued against a Respondent. A Respondent may obtain copies of all documents in the Respondent's disciplinary file that are not privileged or do not constitute attorney work product and are relevant to the subject matter in the pending action before the Hearing Panel. Requests for copies of CFP Board documents must

be made to CFP Board Counsel in writing. Release of information contained in a Respondent's disciplinary file is premised on the understanding that materials will be used only for purposes directly connected to the pending CFP Board action.

### **8.2: DOCUMENTS**

Documents submitted by a Respondent to the DEC for consideration in resolution of the issues raised during an investigation shall be limited to 100 pages. No evidence may be accepted less than 45 calendar days prior to the scheduled hearing, except by motion at the hearing. Should a Respondent deem it necessary to exceed the 100 page limit, the Respondent shall be required to submit a written memorandum that outlines clearly and with reasonable particularity how each and every document submitted by the Respondent or on his or her behalf relates to the allegations contained in the CFP Board Complaint. After reviewing such outline, the DEC shall determine which documents will be permitted.

### **8.3: WITNESSES**

Witnesses, if any, shall be identified by the Respondent and CFP Board no later than 45 calendar days prior to the scheduled hearing. When witnesses are identified, the Respondent and CFP Board shall also state the nature and extent of the witnesses' testimony, as well as whether the witnesses will appear in person or via telephone.

### **8.4: RESPONDENT'S COUNSEL**

Respondent's Counsel, if any, shall be identified to CFP Board no later than 45 calendar days prior to the scheduled hearing. When Respondent's Counsel is identified, the Respondent shall provide the counsel's contact information as well as whether the counsel will appear in person or via telephone. Respondent's counsel must be an active member in good standing of the bar of a United States state, jurisdiction, possession, territory or dependency.

### **8.5: ADMINISTRATIVE DISMISSAL**

If, upon receipt of a Respondent's Answer to the Complaint, new information becomes available that eliminates all questions of fact and may warrant a

dismissal of the case prior to review by a Hearing Panel, CFP Board Counsel may administratively dismiss the Complaint.

## **ARTICLE 9: MOTIONS**

### **9.1: MOTION**

Respondent and/or CFP Board Counsel may file a written motion regarding procedural and/or evidentiary matters. The motion must be filed no later than 30 calendar days prior to the hearing, except as otherwise referenced in Articles 5.5 and 8.2. Filing is accomplished by depositing the motion in the U.S. Mail, by Certified Mail, return receipt requested, properly addressed in accordance with Articles 2.7 and/or 18.2. The motion must state with reasonable particularity the grounds for the motion, the relief sought and whether a hearing is requested. If the motion pertains to a specific rule or rules, the motion must identify the rules. The Chair of the Hearing Panel shall have the discretion to summarily rule on a motion without a requested hearing.

### **9.2: RESPONSE**

Respondent and/or CFP Board Counsel may file a written response to any motion filed by another party. Any response must be filed no later than 10 calendar days after the filing of the motion. Filing is accomplished by depositing the response in the U.S. Mail, by Certified Mail, return receipt requested, properly addressed in accordance with Articles 2.7 and/or 18.2. If a response is filed, a rebuttal is not permitted.

### **9.3: LENGTH**

Motions shall not exceed two single-spaced pages. Attachments shall not exceed 10 pages.

### **9.4: DISPOSITION OF A MOTION**

The Chair of the Hearing Panel shall rule on all motions, objections and other matters presented at, or prior to, a hearing.

## ARTICLE 10: HEARINGS

### 10.1: NOTICE

Not less than 30 calendar days before the date set for the hearing of a Complaint, notice of such hearing shall be given as provided in Article 18.2 to the Respondent, or to the Respondent's counsel. The notice shall designate the date and place of the hearing.

### 10.2: DESIGNATION OF A HEARING PANEL

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

### 10.3: PROCEDURE AND PROOF

The Hearing Panel may be guided by the rules of procedure and evidence applicable in a court of law to the extent it believes it is appropriate. Such rules, however, are not binding on the Hearing Panel. Proof of misconduct shall be established by a preponderance of the evidence. A preponderance of the evidence is a legal standard of review that generally means "more probable than not," i.e., evidence which shows that, as a whole, the fact sought to be proved is more probable than not to have occurred.. In the course of the proceedings, the Chair of the Hearing Panel shall administer affirmations. A complete record shall be made of all testimony taken at hearings before the Hearing Panel.

### 10.4: RECOMMENDATION

CFP Board Counsel or CFP Board Designated Counsel shall present to the Hearing Panel the information and documentation gathered during the investigation and make a recommendation regarding an appropriate sanction.

## ARTICLE 11: REPORT, FINDINGS OF FACT AND RECOMMENDATION

### 11.1: RECOMMENDATION OF THE HEARING PANEL

At the conclusion of the hearing, the Hearing Panel shall record its findings of fact and recommendations and report its findings and recommendations to the DEC for its consideration. In this report, the Hearing Panel shall: 1) determine that the Complaint is not proved or that the facts as established do not warrant

the imposition of discipline and recommend the Complaint be dismissed, either as without merit or with caution; or 2) refer the matter to the DEC with the recommendation that discipline by the DEC is appropriate. The recommendation of the Hearing Panel shall state specifically the form of discipline the Hearing Panel deems appropriate. The Hearing Panel may also recommend that the DEC enter other appropriate orders. In making its recommendation, the Hearing Panel may take into consideration the Respondent's prior disciplinary record, if any, which includes, but is not limited to, any previous sanction issued by the DEC and/or a letter of caution issued by CFP Board Counsel.

### 11.2: POWER OF THE DEC

The DEC reserves the authority to review any determination made by the Hearing Panel in the course of a disciplinary proceeding and to enter any order with respect thereto including an order directing that further proceedings be conducted as provided by these *Disciplinary Rules*. The DEC shall review the recommendation of the Hearing Panel and may either approve the recommendation or remand it to the Hearing Panel for further consideration. Within 45 calendar days of the hearing, the DEC must mail by certified mail to Respondent a final order containing the DEC's findings of fact and, if appropriate, the sanction imposed. Once the DEC has issued an order, the DEC's decision is final.

## ARTICLE 12: APPEALS

All appeals from orders of the DEC and orders of CFP Board Counsel shall be submitted to CFP Board's Appeals Committee in accordance with the *Rules and Procedures of the Appeals Committee*. If an order of the DEC or an order of CFP Board Counsel is not appealed within 30 calendar days after notice of the order is sent to the Respondent, such order shall become final. All orders of the DEC and orders of CFP Board Counsel are appealable unless otherwise noted in these *Disciplinary Rules*.

## ARTICLE 13: CONVICTION OF A CRIME OR PROFESSIONAL DISCIPLINE

### 13.1: PROOF OF CONVICTION OR PROFESSIONAL DISCIPLINE

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

### 13.2: DUTY TO REPORT CRIMINAL CONVICTION OR PROFESSIONAL DISCIPLINE

Every Respondent:

1. upon being convicted of a crime, other than minor traffic offenses;
2. upon being the subject of professional discipline; or
3. upon notification of a change to a matter previously disclosed under items (1) and (2) to CFP Board,

shall notify CFP Board in writing of such conviction or professional discipline within 30 calendar days after the date on which the Respondent is notified of the conviction or professional discipline.

### 13.3: COMMENCEMENT OF DISCIPLINARY PROCEEDINGS UPON NOTICE OF CONVICTION OR PROFESSIONAL DISCIPLINE

Upon receiving notice that a Respondent has been convicted of any crime occurring within the last 10 years, other than minor traffic offenses, or been the subject of professional discipline, CFP Board Counsel shall determine whether an investigation is warranted. CFP Board shall obtain the record of conviction or proof of discipline and, if appropriate, file a Complaint

against the Respondent as provided in Article 7. If the Respondent's criminal conviction or professional discipline is either proved or admitted as provided herein, the Respondent shall have the right to be heard by the Hearing Panel only on matters of rebuttal of any evidence presented by CFP Board Counsel other than proof of the conviction or professional discipline.

### 13.4: DEFINITION OF PROFESSIONAL DISCIPLINE

Professional discipline as used herein shall include the suspension, bar or revocation as a disciplinary measure by any governmental agency, industry self-regulatory organization or professional association.

## ARTICLE 14: SETTLEMENT PROCEDURE

A Respondent or CFP Board Counsel may propose an Offer of Settlement ("Offer") in lieu of a disciplinary hearing pursuant to these *Disciplinary Rules*. Submitting an Offer shall stay all proceedings conducted pursuant to these *Disciplinary Rules*.

### 14.1: OFFER OF SETTLEMENT

CFP Board Counsel shall be permitted to negotiate settlements with Respondents on behalf of CFP Board where it is in the best interests of all parties to attempt to arrive at an expedited resolution. Either CFP Board counsel or Respondent may initiate the settlement negotiations. CFP Board Counsel and Respondent may negotiate violations and penalties, but not factual findings unless evidence proving the contrary is produced during negotiations. CFP Board Counsel shall be authorized to reach a provisional agreement for CFP Board. Upon agreement, the final Offer shall be reduced to writing and signed for presentation by both parties to the DEC. The Offer shall be in writing and must be submitted to CFP Board staff at least 40 calendar days prior to the Respondent's scheduled disciplinary hearing. CFP Board Counsel may endorse the Offer to the Hearing Panel.

A Hearing Panel shall consider the Offer and take one of the actions described in Articles 14.2 and 14.3. The Hearing Panel shall consider only one Offer after the Complaint is filed. Only the DEC shall have final decision making authority to accept or reject an Offer.



The Offer shall contain and describe in reasonable detail:

- A. The act or practice which the Respondent is alleged to have engaged in or omitted;
- B. The principle, rule, regulation or statutory provision which such act, practice or omission to act is alleged to have violated;
- C. The mitigating factors that were considered during the negotiations;
- D. Any evidence produced during negotiations that exonerated or resulted in the recommendation of a lesser violation or penalty or the removal of same;
- E. Any other information CFP Board Counsel found relevant in settlement discussions.
- F. Proposed acceptance and a statement that the Respondent consents to the entry of the Offer; and
- G. A waiver of all rights of appeal to CFP Board's Appeals Committee and the courts or to otherwise challenge or contest the validity of the Order issued if the Settlement Agreement is accepted.

If negotiations between CFP Board Counsel and Respondent are unsuccessful, then Respondent shall have the right to present the Offer directly to the DEC.

#### **14.2: ACCEPTANCE OF OFFER**

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

#### **14.3: REJECTION OF OFFER; COUNTER OFFER**

If the Offer is rejected by a Hearing Panel, the Offer shall be deemed void and the matters raised in the Complaint shall be set for hearing at the next meeting of the DEC. The Respondent shall not be prejudiced by

the prior Offer, and it shall not be given consideration in the determination of the issues involved in the pending or any other proceeding.

If the Hearing Panel deems it appropriate, it may make a Counter Settlement Offer ("Counter Offer") to the Respondent modifying the proposed finding(s) of fact, violation(s) and/or discipline. The Respondent must respond to CFP Board within 20 calendar days from the date of service of the Counter Offer by either accepting or rejecting the Counter Offer. Respondent's failure to respond within 20 calendar days shall be considered rejection of the Counter Offer. If the Counter Offer is rejected by the Respondent, the Offer and Counter Offer shall be deemed void and the matters raised in the Complaint will be set for hearing at the next meeting of the DEC. The Respondent shall not be prejudiced by the prior Offer or the Counter Offer, and neither shall be given consideration in the determination of the issues involved in the pending or any other proceeding.

### **ARTICLE 15: REQUIRED ACTION AFTER REVOCATION OR SUSPENSION**

After the entry of an order of revocation or suspension is final, the Respondent shall promptly terminate any use of the marks and in particular shall not use them in any advertising, announcement, letterhead or business card. Within 30 days of receiving an order of suspension or the execution of an Offer in which a Respondent consented to a suspension, the Respondent must provide to CFP Board evidence that he/she has ceased all use of the marks by providing copies of documents requested by the DEC in its order. Failure to provide the information requested by the DEC will result in an automatic issuance of a revocation under Article 4.4.

### **ARTICLE 16: REINSTATEMENT AFTER DISCIPLINE**

#### **16.1: REINSTATEMENT AFTER REVOCATION**

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

## 16.2: REINSTATEMENT AFTER SUSPENSION

Unless otherwise provided by the DEC in its order of suspension, a Respondent who has been suspended for a period of one year or less shall be automatically reinstated upon the expiration of the period of suspension, provided the Respondent files with CFP Board within 30 calendar days of the expiration of the period of suspension a request for reinstatement. A Respondent who has been suspended for a period longer than one year must petition the DEC for a reinstatement hearing within six months of the end of his/her suspension, or the Respondent shall be permanently barred from using the CFP® certification. Before any reinstatement hearing will be scheduled, the Respondent must meet all administrative requirements for recertification, pay the reinstatement hearing costs and provide evidence, if necessary, that all prior hearing costs have been paid. At the reinstatement hearing, the Respondent must prove by clear and convincing evidence that the Respondent has been rehabilitated, has complied with all applicable disciplinary orders and provisions of these *Disciplinary Rules*, and that the Respondent is fit to use the marks. Clear and convincing evidence means that the DEC must have no reasonable doubt that the Respondent has met his/her burden.

The Respondent may prove rehabilitation by providing to the DEC:

1. Evidence that the Respondent maintained competence and learning in the area of financial planning during the suspension period;
2. Evidence that the Respondent's conduct since the issuance of the DEC's order has been exemplary and beyond reproach;
3. Evidence that the Respondent made restitution or settled all claims from persons injured or harmed by his/her misconduct; and
4. Documentary evidence of all business activities during the suspension period.

The Respondent may prove that he/she is fit to use the marks by demonstrating to the DEC:

1. Whether the Respondent has a proper understanding of CFP Board's Standards and is willing to act in conformity with the Standards;
2. Whether the Respondent can be confidently recommended to the public as a CFP® professional;
3. How the Respondent plans to use the CFP® marks in his/her future business; and
4. Any other information obtained during the hearing that the DEC chooses to consider.

## 16.3: INVESTIGATION

Immediately upon receipt of a petition for reinstatement, CFP Board Counsel will initiate an investigation. The petitioner shall cooperate in any such investigation, and CFP Board Counsel or CFP Board Designated Counsel shall provide to the DEC the Respondent's past disciplinary record and any recommendation regarding reinstatement.

## 16.4: SUCCESSIVE PETITIONS

If a Respondent is denied reinstatement, he/she must wait two years to petition again for reinstatement. The second petition must be received by CFP Board within six months of the expiration of the two -year period, or the Respondent's right to use the marks will be revoked. If the second petition is denied, the Respondent will be permanently barred from using the marks.

## 16.5: REINSTATEMENT FEE

Respondents petitioning for reinstatement will be assessed the costs of the reinstatement proceeding.

## ARTICLE 17: CONFIDENTIALITY OF PROCEEDINGS

### 17.1: CONFIDENTIALITY

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

## 17.2: EXCEPTIONS TO CONFIDENTIALITY

CFP Board may release the records of the proceedings, subject to privilege, if: 1) the proceeding is predicated on a criminal conviction or professional discipline as defined herein; 2) the Respondent has waived confidentiality; 3) such disclosure is required by legal process of a court of law, governmental agency or an industry self-regulatory organization having appropriate jurisdiction; 4) CFP Board Counsel provides the information to a governmental agency or industry self-regulatory organization having appropriate jurisdiction; or 5) in proceedings involving a consumer, CFP Board staff contacts the consumer and/or the Respondent's current and/or former employer to request documents relevant to the proceeding.

## ARTICLE 18: GENERAL PROVISIONS

### 18.1: QUORUM

Two-thirds of the members of the DEC must be present in order to constitute a quorum of such DEC, and the approval of a majority of the quorum shall be the action of such DEC.

### 18.2: NOTICE AND SERVICE

Except as may otherwise be provided in these *Disciplinary Rules*, notice shall be in writing and the giving of notice and/or service shall be sufficient when made by certified mail sent to the last known address of the Respondent according to the records of CFP Board. In matters where a Respondent has designated counsel, notice and service shall be accomplished by certified mail to counsel's address as provided by Respondent.

### 18.3: SUBMISSIONS

All documents received by CFP Board shall be date-stamped and deemed filed on the date received by CFP Board. All such documents shall become part of the investigative file.

### 18.4: COSTS

In all disciplinary cases wherein a proceeding is initiated, the DEC will assess against the Respondent the costs of the proceedings. In addition, a Respondent who desires an appearance, whether telephonically or

in person, or a paper review, or who submits an Offer of Settlement pursuant to Article 14, will be required to submit hearing costs not less than 45 days prior to the date of the scheduled hearing. In the event that the hearing results in a dismissal without merit, the hearing costs shall be refunded to the Respondent. Hearing costs will not be refunded if the hearing results in any action other than a dismissal without merit. A Respondent who petitions for reinstatement from a suspension or revocation or who petitions for appeal shall bear the costs of such proceeding.

Financial hardship. In the event a Respondent is unable to pay the required hearing costs due to financial hardship, the Respondent must submit a written statement and supporting documentation explaining his or her financial situation and request a deferral, reduction or waiver of the hearing costs. Upon receipt and review of such request, CFP Board Counsel shall have the discretion to defer, reduce or waive the required hearing costs. All written requests for a reduction or waiver of hearing costs due to financial hardship must be submitted with Respondent's Answer to the Complaint.

### 18.5: ELECTRONIC SIGNATURE

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

### 18.6: PUBLICATION

It shall be standard procedure to publish the fact of an interim suspension, Public Letter of Admonition, suspension, revocation or permanent bar issued pursuant to Article 4, together with identification of the CFP® professional in a press release and on CFP Board's website. In the event proceedings pursuant to Article 14 result in a Public Letter of Admonition, suspension, revocation, or otherwise result in a termination of the right to use the marks, it shall be standard procedure to publish such fact together with

identification of the Respondent in a press release and on CFP Board's website.

#### **18.7: ANONYMOUS CASE HISTORIES AND SANCTION GUIDELINES**

Anonymous Case Histories are available through CFP Board's website. Anonymous Case Histories are summaries of prior decisions rendered by the DEC. While the Anonymous Case Histories may be relied on by the DEC during hearings and deliberations, the Anonymous Case Histories are not binding on the DEC.

The DEC considers all allegations of misconduct on a case-by-case basis, taking into consideration the details specific to each case. While CFP Board has attempted to capture in the Anonymous Case Histories the details relevant to each DEC decision, the summary nature of an Anonymous Case History may omit certain details affecting the decision. Accordingly, the decisions and/or rationale described in the Anonymous Case History may not apply to other cases reviewed by the DEC or reflect the DEC's future interpretation or application of the *Standards*.

The Sanction Guidelines identify specific conduct that is a violation of CFP Board's Standards, the sanction guideline for that conduct and policy notes for the DEC to consider when imposing the appropriate sanction. The DEC is not bound by the Sanction Guidelines, which are intended, along with the Anonymous Case Histories, to guide the decision making of the DEC. When considering the appropriate sanction in a particular case, the DEC may deviate from the sanction guideline if there are aggravating facts that warrant a more severe sanction or mitigating factors that warrant a less severe sanction.

# APPEAL RULES AND PROCEDURES

## EFFECTIVE JANUARY 1, 2013

### 47 ARTICLE 1: SCOPE OF RULES

### ARTICLE 2: APPEAL PANEL

- 47 2.1 FUNCTION AND JURISDICTION
- 47 2.2 COMPOSITION
- 47 2.3 FUNCTIONS OF THE APPEAL PANEL CHAIR
- 47 2.4 DISQUALIFICATION

### ARTICLE 3: STANDARD OF REVIEW

- 47 3.1 APPEALS FROM ORDERS OF THE DEC
- 47 3.2 APPEALS FROM ADMINISTRATIVE ORDERS

### ARTICLE 4: RIGHT TO APPEAL AND REPRESENTATION

- 47 4.1 APPEALS BY CFP BOARD COUNSEL
- 47 4.2 APPEALS BY RESPONDENT

### ARTICLE 5: APPEAL PROCEDURES

- 47 5.1 INITIATION OF APPEAL
- 48 5.2 PETITION FOR APPEAL
- 48 5.3 ANSWER
- 49 5.4 REBUTTAL

### ARTICLE 6: MOTIONS

- 49 6.1 FILING
- 49 6.2 CONTENT
- 49 6.3 RESPONSE
- 49 6.4 LENGTH
- 49 6.5 DISPOSITION OF A MOTION

### 50 ARTICLE 7: AUTOMATIC STAY OF ORDER

### ARTICLE 8: THE RECORD ON APPEAL

- 50 8.1 COMPOSITION
- 50 8.2 OMISSION FROM OR MISSTATEMENT IN THE RECORD

## **ARTICLE 9: APPEAL HEARING**

- 50 9.1 NOTICE OF HEARING
- 50 9.2 REVIEW OF THE RECORD
- 50 9.3 PRESENTATIONS
- 51 9.4 TRANSCRIPT OF APPEAL HEARING

## **ARTICLE 10: DECISIONS**

- 51 10.1 ORDER OF THE APPEAL PANEL
- 51 10.2 SERVICE OF THE ORDER OF THE APPEAL PANEL

## **ARTICLE 11: REVIEW BY THE APPEALS COMMITTEE OF THE BOARD OF DIRECTORS OF CFP BOARD**

- 52 11.1 PRESENTATION TO APPEALS COMMITTEE
- 52 11.2 CALL FOR REVIEW BY THE APPEALS COMMITTEE
- 52 11.3 DECISION AFTER REVIEW

## **52 DEFINITIONS**

## ARTICLE 1: SCOPE OF RULES

These Appeal Rules and Procedures (the Rules) govern the procedure of appeals from orders of the Disciplinary and Ethics Commission (DEC) of the Certified Financial Planner Board of Standards, Inc. (CFP Board), and appeals from Administrative Orders.

## ARTICLE 2: APPEAL PANEL

### 2.1: FUNCTION AND JURISDICTION

The Appeal Panel is charged with the duty of reviewing all appeals from orders of the DEC and Administrative Orders. The Appeal Panel shall have jurisdiction to review cases that are appealed in accordance with these Rules, and that involve: (1) any Order issued by the DEC, except Interim Suspension Orders; or (2) Administrative Orders.

### 2.2: COMPOSITION

The composition of the Appeal Panel and appointment of a Chair shall be as set forth in CFP Board's Bylaws, Policy Governance Manual and/or Appeal Panel Charter, as amended from time to time. No member of the Appeal Panel may serve simultaneously as a member of the DEC.

### 2.3: FUNCTIONS OF THE APPEAL PANEL CHAIR

The Appeal Panel Chair shall rule on all motions, objections, and other matters presented in the course of the hearing. The Chair shall also have the authority to rule on preliminary motions or matters raised prior to the hearing.

### 2.4: DISQUALIFICATION

Appeal Panel members shall not participate in any appeal proceeding that would result in, or cause, a conflict of interest or would give the appearance of impropriety.

## ARTICLE 3: STANDARD OF REVIEW

### 3.1: APPEALS FROM ORDERS OF THE DEC

In appeals from orders of the DEC, except interim suspension orders, the Appeal Panel shall affirm the findings of fact, rule violation(s) and/or disposition of the proceedings, unless the Appeal Panel finds

that the findings of fact, rule violation(s) and/or the disposition of the proceedings is clearly erroneous.

### 3.2: APPEALS FROM ADMINISTRATIVE ORDERS

In appeals from administrative orders, the Appeal Panel shall affirm the order of CFP Board, unless Appellant establishes: (a) excusable neglect for failing to respond to the Complaint, or (b) that the issuance of the order was clearly erroneous.

## ARTICLE 4: RIGHT TO APPEAL AND REPRESENTATION

### 4.1: APPEALS BY CFP BOARD COUNSEL

CFP Board Counsel may appeal any Order of the DEC, except an order in which the DEC declines to impose an interim suspension, to the Appeal Panel, provided he or she complies with all other provisions of these Rules. In the event that CFP Board Counsel appeals an Order of the DEC, the Respondent shall not be assessed an appeal fee.

### 4.2: APPEALS BY A RESPONDENT

- A. **Right to Appeal.** Respondent may appeal any Order of the DEC, except an interim suspension order, and any Administrative Order issued by CFP Board Counsel to the Appeal Panel, provided he or she complies with all other provisions of these Rules.
- B. **Right to counsel.** Respondent has the right to be represented by counsel who must be an active member in good standing of the bar of a United States state, jurisdiction, possession, territory, or dependency. Respondent shall identify in his or her Petition for Appeal or Response to Petition for Appeal any counsel, the counsel's contact information and whether the counsel will appear in person or via telephone.

## ARTICLE 5: APPEAL PROCEDURES

### 5.1: INITIATION OF APPEAL

- A. **Initiation Deadline.** An Appellant's Petition for Appeal must be filed within 30 calendar days from the date the Order of the DEC

or an Administrative Order is mailed to Respondent.

- B. **Motion for More Time.** In the event Appellant fails to satisfy the provisions of this section within the time allotted in subsection *a.* above, the Appeal Panel may extend the time for initiating the appeal upon motion by Appellant. Said motion must be filed by Appellant no later than 30 calendar days after the expiration of the time prescribed in subsection *a.* and must demonstrate excusable neglect for Appellant's failure to submit a Notice of Appeal and/or costs within the time allotted under subsection *a.*

## 5.2: PETITION FOR APPEAL.

- A. **Filing.** Filing shall be accomplished by depositing the Petition for Appeal in the U.S. Mail, by Certified Mail, return receipt requested, properly addressed to CFP Board headquarters.

B. **Content.**

1. Appeals from Orders issued by the DEC  
The Petition for Appeal from an Order issued by the DEC shall specify the party filing the appeal, shall identify the DEC's order, and shall state clearly and concisely the grounds upon which the Appellant seeks a modification or remand of the Order. The contents of the Petition for Appeal shall be limited to the evidence contained in the record. The Appeal Panel shall not consider new evidence or hear testimony from any witnesses. However, a party can raise new "arguments" (as distinguished from a new "claim") on appeal. Once a claim is properly presented, a party can make any argument in support of that claim; parties are not limited to the precise arguments they made below. See, *Yee v. City of Escondido*, 503 U.S. 519, 534-535 (U.S. 1992).

2. Appeals from Administrative Orders  
The Petition for Appeal from administrative orders must specify the party filing the appeal and must identify the Administrative Order. The content of the Petition for Appeal shall be limited to the circumstances and evidence surrounding Appellant's failure to respond to CFP Board's Complaint. The Appeal Panel must not consider any evidence with regard to the allegations in the Complaint, except those allegations relating to Appellant's failure to respond.

3. Length

The aggregate length of a Petition for Appeal shall not exceed 10 single-spaced pages, excluding any attachments, and shall be submitted on 8 ½ x 11 inch paper, with a minimum font size of 11 points. Attachments shall not exceed 20 pages.

- C. **Appearance.** An Appellant appealing an Order issued by the DEC has the right to appear, either telephonically or in person, but must request such an appearance in the Petition for Appeal. Failure to request an appearance in the Petition for Appeal will result in a waiver of the Appellant's right to appear.
- D. **Costs.** All costs for an appellate review, including all costs from the underlying hearing, if any, must be received by CFP Board within the time allotted under subsection *a.* above and are nonrefundable. Appellant may request a reduction or waiver of the appeal hearing costs due to financial hardship. Such request must be submitted in writing with the Petition for Appeal. Upon receipt and review of the request, CFP Board Advisory Counsel shall have the discretion to reduce or waive the required appeal hearing costs. If CFP Board Counsel initiates the appeal of an Order, the Appellee will not be assessed a hearing fee.



### 5.3: ANSWER

- A. **Filing.** Appellee must file an Answer within 30 calendar days after CFP Board receives the Petition for Appeal. The Answer must be filed at least 30 calendar days prior to the hearing, unless Appellant expressly waives his or her right, in writing, to the 30-day notice. Filing must be accomplished by depositing the Answer in the U.S. Mail, by Certified Mail, return receipt requested, and shall be sent to the Appellant and/or Appellant's counsel's last known address.
- B. **Content.** The Answer must specify the party filing the Answer, respond to the issues raised in the Petition for Appeal, and state clearly and concisely the grounds upon which the DEC's order should be affirmed, modified or remanded.
- C. **Length:** The aggregate length of the Answer must not exceed 10 single-spaced pages, excluding any attachments, and must be submitted on 8 ½ x 11 inch paper, with a minimum font size of 11 points. Attachments must not exceed 20 pages.

### 5.4: REBUTTAL

- A. **Filing.** An Appellant may file a rebuttal under the following circumstances: (1) if Appellant has waived the right to appear at the appeal hearing; or (ii) if Appellant is appealing an administrative order. Appellant must file a rebuttal within 10 calendar days of receipt of the Answer. A rebuttal must be filed at least 20 calendar days prior to the appeal hearing, unless Appellee expressly waives his or her right, in writing, to this 20-day notice. Filing is accomplished by depositing the rebuttal in the U.S. Mail, by Certified Mail, return receipt requested, properly addressed to Appellant and/or Appellant's counsel's last known address.
- B. **Content.** The content of the rebuttal is limited to those issues raised in the Petition for Appeal and the Answer.
- C. **Length.** The rebuttal must not exceed two single-spaced pages and shall be submitted

on 8 ½ x 11 inch paper, with a minimum font size of 11 points. No attachments are permitted.

## ARTICLE 6: MOTIONS

### 6.1: FILING

An Appellant or Appellee may file a written motion (exclusive of motions in Article 5.1b and 9.3b) regarding procedural matters. The motion must be filed no later than 15 days prior to the appeal hearing. Filing is accomplished by depositing the motion in the U.S. Mail, by Certified Mail, return receipt requested, properly addressed to the Appellant's or Appellee's and/or Appellant's or Appellee's counsel's last known address..

### 6.2: CONTENT

The motion must state with reasonable particularity the grounds for the motion and the relief sought. If the motion pertains to a specific rule or rules, the motion must identify the rules.

### 6.3: RESPONSE

An Appellant or Appellee may file a written response to a motion filed by another party. Any response must be filed no later than 10 days after the filing of the motion. The content of a response to a motion is governed by Article 6.2. Filing is accomplished by depositing the response in the U.S. Mail, by Certified Mail, return receipt requested, properly addressed to the last known address Appellant's or Appellee' and/or Appellant's or Appellee's counsel's last known address.. If a response to a motion is filed, a rebuttal is not permitted.

### 6.4: LENGTH

Motions must not exceed two single-spaced pages and must be submitted on 8 ½ x 11 inch paper, with a minimum font size of 11 points. Attachments must not exceed 10 pages.

### 6.5: DISPOSITION OF A MOTION

- A. **Appearance Requested.** The Appeal Panel Chair must rule on all motions, either orally or in writing, on or before the date of the hearing.

- B. **Paper Review.** The Appeal Panel Chair must rule on all motions in a written order mailed to both parties within 30 days of the Appeal Panel's decision. The order must be mailed to each party by U.S. Mail, by Certified Mail, return receipt requested, to the last known address of each party and/or each party's counsel.

## ARTICLE 7: AUTOMATIC STAY OF ORDER

Upon successful initiation of an appeal, the Order of the DEC or Administrative Order shall be stayed pending a decision by the Appeal Panel.

## ARTICLE 8: THE RECORD ON APPEAL

### 8.1: COMPOSITION

- A. **Appeals from Orders issued by the DEC.** The record on appeal shall consist of all evidence provided to the DEC the DEC's Order, the transcript of the hearing before the DEC, the Petition for Appeal, the Answer to the Petition for Appeal, and the rebuttal, if applicable.
- B. **Appeals from Administrative Orders.** The record on appeal shall consist of the Notice of Complaint and Hearing, the Complaint, proof of service of the Complaint upon the Appellant, the Administrative Order of Revocation, all evidence that relates to Appellant's failure to respond, the Petition for Appeal, the Answer to the Petition for Appeal, along with a timeline of events, and the rebuttal, if any.

### 8.2: OMISSION FROM OR MISSTATEMENT IN THE RECORD

If anything material to any party is omitted from the record created from the hearing before the DEC or is misstated therein, either party may, at any time, supply the omission or correct the misstatement by stipulation. In the event there is no stipulation, the parties may submit the matter to the Appeal Panel Chair, who may, at any time, direct the omission or misstatement be remedied and, if necessary, that a supplemental record be prepared and filed.

## ARTICLE 9: APPEAL HEARING

### 9.1: NOTICE OF HEARING

Not less than 30 calendar days prior to the date set for an appeal hearing, written notice of such hearing shall be sent to each party, designating the date and place of the hearing. The notice shall be deposited in the U.S. Mail, by Certified Mail, return receipt requested, to each party's last known address.

### 9.2: REVIEW OF THE RECORD

The Appeal Panel shall review the record on appeal (see Article 8.1).

### 9.3: PRESENTATIONS

#### A. Right to presentation.

1. Appellant  
Appeals from Orders issued by the DEC. If Appellant requests an appearance pursuant to Article 5.2(c), he/she will have the right to make an oral presentation. If Appellant has waived his/her right to appear pursuant to Article 5.2(c) of these Rules, the Appeal Panel will make its decision based on the record and neither the Appellant nor the DEC will have the right to make an oral presentation.

Appeals from Administrative Orders. Neither Appellant nor Appellee will have the right to appear if Appellant is appealing an Administrative Order.

2. Appellee  
The Appellee will have the right to make an oral presentation in all cases on appeal where the Appellant has exercised his/her right to appear pursuant to Article 5.2(c) of these Rules.

#### B. Affirmative Presentation.

1. Content  
Affirmative presentations shall be concise, shall address only those issues raised in the Petition for Appeal and Answer, and may be terminated by the Appeal Panel if either Appellant or Appellee exceeds the time limits prescribed below.

2. Time Allotted and Order of Presentations  
Appellant and Appellee each have 20 minutes to make an oral presentation. Appellant shall present first.

3. Motion for More Time  
The Appeal Panel may consider motions from the Appellant or Appellee requesting additional time for oral presentations and may grant such motions upon a showing of good cause.

C. **Rebuttal.** Following the presentation of the Appellee, Appellant shall be permitted five minutes for rebuttal. The rebuttal must address only those issues raised in the Petition for Appeal and Answer or the affirmative presentations.

D. **Questioning.** The Appeal Panel may ask questions at any time during or after the presentations. In the event the Appeal Panel exercises its right to ask questions, the time allotted for presentation will not be extended.

**9.4: TRANSCRIPT OF APPEAL HEARING**

If either party wishes to have a transcript of the appeal hearing, the party is responsible for securing, making all necessary arrangements with, and paying the cost of, the transcriptionist.

**ARTICLE 10: DECISIONS**

**10.1: ORDER OF THE APPEAL PANEL**

Decisions shall be rendered as set forth below.

A. **Order issued by the DEC.** The Appeal Panel shall affirm, modify the rule violation(s) and/or disposition of the proceedings, or remand the matter to the DEC.

1. Affirm  
If the Appeal Panel finds no clear error in the DEC’s findings of fact, rule violation(s) and the disposition of the proceedings, it shall affirm the DEC’s decision;

2. Modify  
If the Appeal Panel finds clear error as to the rule violation(s) and/or disposition of the proceedings but not the DEC’s findings of fact, the Appeal Panel shall affirm the DEC’s findings of fact but it may modify the rule violation(s) and/or disposition of the proceedings; or

3. Remand  
If the Appeal Panel finds clear error as to the DEC’s findings of fact, the Appeal Panel shall remand the matter to the DEC with instructions for further proceedings if the Appeal Panel finds clear error as to the DEC’s findings of fact.

A finding is ‘clear error’ or ‘clearly erroneous’ when the Appeal Panel, after considering the entire evidence, is left with the definite and firm conviction that a finding of fact, rule violation and/or the disposition of the proceedings is unsupported by substantial evidence.

**B. Administrative Orders.**

1. Affirm  
The Appeal Panel shall affirm CFP Board’s Administrative Order; or

2. Remand  
The Appeal Panel shall remand the matter to the DEC for a disciplinary hearing. In order to remand, the Appeal Panel must find Appellant has established excusable neglect for failing to respond to the Complaint, or that the issuance of the order was clearly erroneous.

**10.2: SERVICE OF THE ORDER OF THE APPEAL PANEL**

A written order shall be mailed to both parties within 30 days after the review by CFP Board’s Appeals Committee as provided in Article 11. The order must be mailed to the Appellant or the Appellant’s counsel by U.S. Mail, by Certified Mail, return receipt requested, to the last known address of each party and/or each party’s counsel.

## **ARTICLE 11: REVIEW BY THE APPEALS COMMITTEE OF THE BOARD OF DIRECTORS OF CFP BOARD**

### **11.1: PRESENTATION TO APPEALS COMMITTEE**

The Managing Director of Professional Standards and Legal (“Managing Director”) shall present every decision issued by the Appeal Panel to the Appeals Committee of the Board of Directors. The Appeals Committee shall: (i) affirm the Appeal Panel’s decision; or (ii) call the matter for review at the next scheduled Appeals Committee meeting. The Appeals Committee’s decision is the final decision of CFP Board.

### **11.2: CALL FOR REVIEW BY THE APPEALS COMMITTEE**

After receiving the presentation from the Managing Director, the Appeals Committee may, if it wants further details of the Appeal Panel’s determination, call the case for review at the Appeals Committee’s next scheduled meeting. At the Appeals Committee’s next scheduled meeting, the Managing Director must present a detailed review of the Appeal Panel’s determinations. Neither Appellant nor Appellee will have the right to appear during this review by the Appeals Committee.

### **11.3: DECISION AFTER REVIEW**

After review of the matter under Article 11.2, the Appeals Committee shall: (i) affirm the Appeal Panel’s decision; or (ii) if it finds clear error in the Appeal Panel’s decision, remand the matter to the Appeal Panel with instructions for further proceedings.

## **DEFINITIONS**

### ***ADMINISTRATIVE ORDERS***

CFP Board Counsel issues an Administrative Order in instances where a CFP Board designee fails to file a timely Answer to the Complaint within the required 20 calendar days from the date of service of the Complaint, as provided in Article 7.3 of the *Disciplinary Rules and Procedures*. Such orders are referred to as “administrative” because they do not involve a hearing before the DEC.

### ***APPELLANT***

The party who appeals an Order issued by the DEC and/or an Administrative Order.

### ***APPELLEE***

The party against whom an appeal is taken and whose role is to respond to the Petition for Appeal.

### ***CLEAR ERROR / CLEARLY ERRONEOUS***

A finding is “clearly erroneous” when the Appeal Panel, after considering the entire evidence, is left with the definite and firm conviction that a finding of fact, rule violation and/or the disposition of the proceedings is unsupported by substantial evidence.

### ***EXCUSABLE NEGLIGENCE***

A legal standard of review which generally means a failure to take proper steps at a proper time, which were not a consequence of carelessness, but rather resulted from some unavoidable hindrance or occurrence. In determining whether excusable neglect exists, relevant circumstances include: (1) the danger of prejudice to the DEC; (2) the length of the delay and its potential impact on the proceedings of either the DEC or the Appeal Panel; (3) the reason for the delay, including whether it was within the Respondent’s control; and (4) whether the Respondent acted in good faith.

### ***PREPONDERANCE OF THE EVIDENCE***

A legal standard of review which generally means “more probable than not,” i.e., evidence which shows that, as a whole, the fact sought to be proved is more probable than not to have occurred.

# FITNESS STANDARDS FOR CANDIDATES AND PROFESSIONALS ELIGIBLE FOR REINSTATEMENT

EFFECTIVE SEPTEMBER 14, 2012

CFP Board established specific character and fitness standards for candidates for CFP® certification to ensure that an individual's prior conduct would not reflect adversely upon the profession or the CFP® certification marks. CFP Board determined that such standards would also provide notice to individuals interested in attaining CFP® certification that certain conduct would bar certification, or require an individual to petition the Disciplinary and Ethics Commission (Commission) for consideration.

Effective January 1, 2011, the *Fitness Standards* shall apply to Professionals Eligible for Reinstatement (PER), i.e., individuals who are not currently certified but have been certified by CFP Board in the past and are eligible to reinstate their certification without being required to pass the current CFP® Certification Examination.

## CONDUCT DEEMED UNACCEPTABLE

The following conduct is unacceptable and will always bar an individual from becoming certified:

- Felony conviction for theft, embezzlement or other financially-based crimes.
- Felony conviction for tax fraud or other tax-related crimes.
- Revocation of a financial (e.g. registered securities representative, broker/dealer, insurance, accountant, investment advisor, financial planner) professional license, unless the revocation is administrative in nature, i.e. the result of the individual determining not to renew the license by not paying the required fees.

- Felony conviction for any degree of murder or rape.
- Felony conviction for any other violent crime within the last five years.

## CONDUCT DEEMED A PRESUMPTIVE BAR

The following conduct is presumed to be unacceptable and will bar an individual from becoming certified unless the individual petitions the Commission for consideration, and the Commission grants the petition:

- Two or more personal or business bankruptcies.
- Revocation or suspension of a non-financial professional (e.g. real estate, attorney) license, unless the revocation is administrative in nature, i.e. the result of the individual determining not to renew the license by not paying the required fees.
- Suspension of a financial professional (e.g. registered securities representative, broker/dealer, insurance, accountant, investment advisor, financial planner) license, unless the suspension is administrative in nature, i.e. the result of the individual determining not to renew the license by not paying the required fees.
- Felony conviction for non-violent crimes (including perjury) within the last five years.
- Felony conviction for violent crimes other than murder or rape that occurred more than five years ago.

Other matters that may reflect adversely upon the profession or the CFP® certification marks will be reviewed by the Commission under the procedures outlined in CFP Board's *Disciplinary Rules and Procedures*, after the candidate or PER has successfully completed the education, examination and experience requirements for certification. These include, but are not limited to, customer complaints, arbitrations and other civil proceedings, felony convictions for non-violent crimes that occurred more than five years ago, misdemeanor convictions, and employer investigations and terminations. CFP Board requires candidates for CFP® certification and PERs to disclose certain matters on the ethics declaration of the Certification Application.

### PETITIONS FOR CONSIDERATION

Individuals who have conduct that either falls under the "Presumptive Bar" list (see above) or may reflect adversely upon the profession or the CFP® certification marks may petition the Commission for consideration and a determination whether their conduct will bar certification. The process for these reviews is as follows:

1. When CFP Board learns that an individual's conduct falls within the "Unacceptable" list (see above), CFP Board shall notify the individual that he/she is permanently barred from becoming certified.
2. The individual submits a written petition for consideration to CFP Board's Professional Standards Department, and signs a form agreeing to CFP Board's jurisdiction to review the matter.
3. CFP Board reviews the request to confirm that the conduct either falls within the "Presumptive Bar" list, or is conduct that may reflect adversely upon the profession or the CFP® certifications marks. Once confirmed, CFP Board will request all relevant documentation from the individual, and a fee shall be paid by the individual submitting the petition for consideration.

Following the Commission's review of the petition, the Commission shall make one of the following determinations:

- Grant the petition after determining the conduct does not reflect adversely on the individual's fitness as either a registrant seeking reinstatement or as a candidate for CFP® certification, or upon the profession or the CFP® certification marks, and CFP® certification shall be issued to the individual.
- Deny the petition but allow the individual to re-apply for CFP® certification after a period not to exceed five years. The individual shall be required to satisfy the education, examination, experience and ethics requirements of CFP® certification at the time of re-application.
- Deny the petition after determining the conduct reflects adversely on the individual's fitness as a registrant seeking reinstatement or as a candidate for CFP® certification, or upon the profession or the CFP® certification marks, and the CFP® certification shall be permanently barred.

The Commission's decision regarding a petition for consideration may be appealed to the Appeals Committee of the Board of Directors, in accordance with Article 12 of the *Disciplinary Rules and Procedures*.

Registrants applying for reinstatement following a period of suspension must follow the reinstatement procedures outlined in Article 16 of the *Disciplinary Rules and Procedures*.



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CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

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