

Second Exposure Draft of Revisions to CFP Board's *Standards of Professional Conduct*

Certified Financial Planner Board of Standards, Inc. (CFP Board) seeks comments on the accompanying Second Exposure Draft of proposed revisions to its *Standards of Professional Conduct*. Please note that because no revisions are being proposed to the *Disciplinary Rules and Procedures*, that document is not included in the Exposure Draft. Similarly, the existing Advisory Opinions and Sample Disclosure Forms are not included in the Exposure Draft as no revisions have been made to those documents.

Reasons for Revisiting the *Standards of Professional Conduct*

CFP Board's Board of Directors (the Board) regularly evaluates CFP Board's core functions, summarized by the Four "Es:" education, experience, exam and ethics. In 2005, the Board began a review of its ethics-related functions. An Exposure Draft of proposed revisions was issued in July 2006, and a task force was created to review the comments received from CFP[®] professionals, allied organizations and other parties with interests related to the financial planning profession. The task force presented its report to the Board in January 2007, including revisions to the previous Exposure Draft, and proposed that comments on the Second Exposure Draft be solicited.

Specific Revisions To Exposure Draft

Terminology

The task force revised the definition of "certificant" to include only those individuals who are currently certified by CFP Board. They also created the term "registrant" to replace the term "CFP Board designee" as the use of that term was confusing in previous versions. "Registrant" defines those individuals who are not currently certified by CFP Board but are eligible to reinstate their right to use the CFP[®] marks without passing the current CFP[®] Certification Examination.

To avoid confusion by consumers and clients, the task force revised the definition of "fee-only" so that a certificant may use the term only if all of his or her compensation comes exclusively from clients in the form of fees.

The task force also clarified the definition of "fiduciary." Finally, the task force clarified that the use of the defined terms is to interpret and/or enforce CFP Board's ethical standards.

The task force modified the definition of a "financial planning engagement" to avoid a potential loophole when certificants do not have written agreements with clients when providing a financial planning service.



Aspirational Code of Ethics

Currently, the *Code of Ethics* includes contradictory language, stating that the *Code of Ethics* is both aspirational and binding. Draft #2 attempts to clarify the issue by making the distinction that while the *Code of Ethics* is aspirational and describes in general terms the high professional standards expected of certificants, the *Rules of Conduct* are binding and describe specific requirements for certificants in their professional activities. To further clarify this issue, the task force revised the Principles in the *Code of Ethics* so that the language is more proactive and to avoid confusion around the terms “should,” “shall” and “must.”

Rules of Conduct 1.1, 1.2 and 1.3

The task force revised Rules 1.1, 1.2 and 1.3 to clarify that the items apply to services that include financial planning or material elements of the financial planning process and that a written agreement is required when the services include financial planning or material elements of the financial planning process. Additionally, currently existing written documentation regarding the services provided to clients may comply with these Rules and entirely new documents may not be needed.

Rule 1.4

The task force revised Rule 1.1(e) of the previous Exposure Draft, creating new Rule 1.4 which clarifies that a certificant must always place the interest of the client ahead of his or her own, and that when the certificant is providing financial planning or material elements of the financial planning process, the duty of care owed to clients is that of a fiduciary as defined by CFP Board.

Rule 2.1 and 2.2

The task force clarified that the required disclosures must be made to prospective clients as well as clients, and that if the services include financial planning or material elements of the financial planning process, the disclosures must be in writing.

Financial Planning Practice Standards

By including the existing *Financial Planning Practice Standards*, the task force clarified that the *Practice Standards* are considered to be the best practices for financial planning professionals and that the Disciplinary and Ethics Commission and Appeals Committee use them in evaluating conduct to determine if the *Rules of Conduct* have been violated. A few minor revisions were made to ensure the *Practice Standards* are consistent with the *Rules of Conduct*.

Summary

CFP Board currently has over 54,500 certificants. Based on those who have provided basic information about their employment activities, about 70% of certificants indicate that they are providing personal financial planning to clients. It is the belief of the Board of Directors that the revised requirements regarding the duty of care a certificant owes to his or her clients are consistent with the SEC's Rule 202 and other investment advisory requirements.

The Board of Directors believes the Second Exposure Draft accomplishes the goal of ensuring the ethical standards apply to all individuals over whom CFP Board has jurisdiction, clearing up repetitive and confusing language and creating an enforceable duty of care for certificants.

Next Steps

The Board of Directors is soliciting comments on the Second Exposure Draft until April 25, 2007. Interested stakeholders can go to CFP Board's Web site to complete a survey or send written comments via e-mail to mail@CFPBoard.org or by mail to:

CFP Board
Attn: Ethics Task Force
1670 Broadway, Suite 600
Denver, CO 80202

The Board of Directors will review the comments at its meeting in May 2007. If the Board approves the revisions, an effective date of January 1, 2008 is anticipated.