

**2007 PROGRAM DIRECTOR'S CONFERENCE
SEPTEMBER 7-8 2007
WASHINGTON STATE CONVENTION AND TRADE CENTER
SEATTLE, WASHINGTON**

SESSION: #977511

CFP BOARD'S CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY, RULES OF CONDUCT AND FINANCIAL PLANNING PRACTICE STANDARDS

Presented on the newly revised *Standards of Professional Conduct*, followed by a discussion on the practical side of these topics

FRIDAY, SEPTEMBER 7, 2007
2:30 PM – 3:30 PM

PANELIST:

Mrs. Marilyn Capelli Dimitroff, CFP®
Capelli Financial Services, Inc.
40950 Woodward, Suite 140
Bloomfield Hills, MI 48301

Worth Magazine identified Mrs. Dimitroff as one of the nation's top 60 financial advisors in the October 1994 edition and has included her each year since. *Money Magazine* had previously named her as one of the country's top 200 financial planners. In addition, Capelli Financial Services, Inc. and Mrs. Dimitroff have been included by *Bloomberg Press*, *Mutual Fund Magazine* and *Financial Advisor* on lists of top financial advisors in the nation.

Marilyn Capelli Dimitroff, President of Capelli Financial Services, Inc. is a specialist in personal financial planning. She earned a Bachelors degree in Mathematics from Michigan State University and received a Masters degree in Mathematics from Eastern Michigan University. Mrs. Dimitroff is a CERTIFIED FINANCIAL PLANNER® certificant and has served as an adjunct faculty member of the College for Financial Planning in Denver, Colorado.

Mrs. Dimitroff is a former Senior Vice President and Private Banking Manager at Citizens Bank where she established and managed a Financial Advisory and Private Banking Division. Prior to joining the Citizens Banking organization, Mrs. Dimitroff managed Forest Financial Corporation in the Chicago area, parent company of Forest Financial Advisors and Forest Securities - firms which she founded and grew to prominence.

Mrs. Dimitroff is a leader in the financial planning profession. She is a member of the Board of Directors of the Certified Financial Planner Board of Standards, Inc. and served as Chair of the CFP Board of Practice Standards. She is past Chairman of the national Chapter Advisory Council of the International Association for Financial Planning and past president of the South Chicago chapter of the IAFP. She was appointed to the Charles Schwab & Co. Advisory Board and has served on the grant-making board of the Foundation for Financial Planning.

A participant on major television and radio programs, Mrs. Dimitroff has been quoted in many national publications including *The Wall Street Journal*, *Forbes*, and the *New York Times*. In Michigan, she has appeared regularly on WJRT TV-12, the ABC affiliate in mid-Michigan.

Photography has been a serious part of Mrs. Dimitroff's life since 1993. She and her husband have traveled the world as amateur photographers creating memorable experiences and shots.

PANELIST:

Professor Charles A. Moran, CFP®, CEBS, JD
State University of New York - Cobleskill
207 Warner
Cobleskill, NY 12043

Chuck Moran's career in financial services spans 40 years, including stints as Pension Trust officer of The Chase Manhattan Bank and Senior Vice President – Trust Division of Manufacturers Hanover Trust Company (both now part of JP Morgan Chase); Chairman, President and CEO of Lionel D. Edie and Company, Inc. (then the 15th largest money manager in the US); founding President of Government Securities Clearing Corporation;

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PANELIST: Professor Charles A. Moran, CFP[®], CEBS, JD (Continued)

and currently Professor of Business Administration and the founding Director of the Financial Planning Program and The Center For Collaborative Sustainability at The State University of New York-Cobleskill. During that time he represented the 14,000 US banks in testimony before the US Senate, House and various regulatory agencies on 25 occasions on retirement, securities and other issues.

He graduated from Princeton University with an A.B., the University of Michigan Law School with a JD and completed the Advanced Management Program at Harvard Business School. He currently teaches Ethics in the Business Organization and Corporate Governance at New York University and International Corporate Governance at Harvard University.

He is the current Chair of the Ethics Committee of the Financial Planning Association and has previously served as Chair of the Government Relations Committee and on the ICFP and FPA Board of Directors.

He has a long term commitment to the environment, serving for many years as the Chair of INFORM Inc. (an environmental research organization in New York) and currently on the Bioenergy Advisory Team of an innovative effort to convert multiple bio-waste streams into energy.

PANELIST: Ms. Nancy Johnson Jones, CFP[®]
BKD Wealth Advisors, LLC
1700 Lincoln Street, Suite 1450
Denver, CO 80203

Nancy Johnson Jones, CFP[®] is the Chief Compliance Officer for BKD Wealth Advisors, LLC, a wholly owned subsidiary of BKD, LLP, one of the top ten CPA and wealth advisory firms in the country. BKD currently has more than \$1 billion in assets under its management. Before joining BKD, Nancy was President and Founder of Strategic Compliance Concepts, a firm that provided compliance coaching services to investment advisers, financial planners and independent broker/dealers around the country.

Nancy also served as Vice President and Chief Compliance Officer for 1st Global Capital Corp. in Dallas, TX, and she has held Chief Compliance Officer positions with Cambridge Investment Research, Inc. in Fairfield, IA and with Waterstone Financial (formerly Long Grove Trading Company) in Itasca, IL.

Nancy is currently a member of the Board of Directors for the CERTIFIED FINANCIAL PLANNER Board of Standards, serving a four-year term. She served on the FPA's National Board of Directors from 2002-2004 and is recognized nationally for her experience with professionals new to the financial planning profession. Past positions with FPA include serving as Chair for FPA San Diego 2005 and numerous committees including the Financial Planning Standards of Conduct task force.

CFP Board's *Standards of Professional Conduct*

Program Directors Conference
Seattle, September 2007

CFP Board

- Mission: To Help people benefit from competent, professional and ethical financial planning.
- Through: Rigorous Education, Examination, Experience and Ethics requirements in the certification process

Why Revise?

- CFP Board continually updates its *Standards* to:
- Reflect changing regulatory and business environments
 - Ensure ethical standards remain strong
 - Ensure enforceability of ethical standards

Revision Process

- Two Exposure Drafts released for public comment
 - First Draft – July 2006
 - Second Draft – March 2007
- Comments received from:
 - CFP® professionals
 - Allied organizations
 - Other interested parties
- Ethics Task Force:
 - Reviewed comments
 - Presented recommendations to Board of Directors
 - Revisions adopted and announced on May 31, 2007

Questions about Revised *Standards*

- Are consumers served by the revised Ethical Standards?
- Are CFP® certificants served by the revised Ethical Standards?
- Is the financial planning profession enhanced by the revised Ethical Standards?

We believe they are.

Improvements

- The revised *Standards*
 - Maintain high ethical standards
 - Strengthen key ethical standards
 - Add key elements of the *Financial Planning Practice Standards* to the *Rules of Conduct*
 - Are understandable by CFP® professionals and the public
 - Affirm value of CFP® certification for the public
 - Better reflect the current state of financial planning

Structure of Revised *Standards*

- *Code of Ethics*
 - Aspirational in nature
 - Demands high professional standards from CFP® certificants
 - Principles revised so language is proactive
- *Rules of Conduct*
 - Binding
 - Specific requirements for professional activities of CFP® certificants
- *Financial Planning Practice Standards*
 - Updated with references to *Rules of Conduct*

Rules Apply to All Certificants

- Revised *Standards* apply to all CFP® certificants
 - Term “certificant” replaces “CFP Board designee”
- Some rules limited to CFP® certificants who provide services that are:
 - Financial planning
 - Material elements of the financial planning process(Rules 1.2, 1.3, 1.4 and 2.2)

Terminology of Revised *Standards*

- Goal was to avoid confusion
- Used for interpreting and/or enforcing CFP Board’s ethical standards only

Terminology, cont'd

- Fee-only
 - A certificant may describe his or her practice as "fee-only" if, and only if, all of the CFP® 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.

Terminology, cont'd

- Definition of Financial Planning integrates the process with the subject areas.
- Guidance is provided on "material elements" of financial planning.
 - Client's understanding
 - Degree of use of multiple areas
 - Comprehensiveness of data gathering
 - Breadth and depth of recommendations

Material Elements of Financial Planning

- May exist without providing a comprehensive written financial plan
- May be determined by what was communicated to the client and the client's perception

Material Elements of Financial Planning

- In determining whether a CFP® certificant is providing financial planning or material elements of the financial planning process, issues that may be considered include, but are not limited to:
 - The client's understanding and intent in engaging the certificant
 - The degree to which multiple financial planning subject areas are involved
 - The comprehensiveness of data gathering
 - The breadth and depth of recommendations

Material Elements of Financial Planning

- What MAY BE a material element
 - Conducting detailed data-gathering regarding multiple aspects of client's financial situation
 - Analyzing client's data and making wide-ranging recommendations

Material Elements of Financial Planning

- What MAY NOT be a material element
 - A broker completing paperwork to open an account
 - Acting as an order-taker for brokerage services
 - An insurance agent taking an order for an insurance product
 - Acting as a mortgage broker without providing any other financial services
 - Completing tax returns without providing any other financial services
 - Teaching a financial class or CE program

Written Documentation

- Rule 1.2
 - Requires written disclosures about scope of engagement to clients and prospective clients when services include financial planning or material elements of the financial planning process
- Rule 1.3
 - Requires written agreement when services include financial planning or material elements of the financial planning process
- Rule 2.2
 - Requires written disclosures about compensation and conflicts when services include financial planning or material elements of the financial planning process

Duty of Care Standard

- 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 the financial planning process, the certificant owes to the client the duty of care of a fiduciary as defined by CFP Board.
- Fiduciary defined
 - One who acts in utmost good faith, in a manner he or she reasonably believes to be in the best interest of the client

Other Changes

- Disclosures are clearer and writings required
- Disclosure of and fair management of conflicts of interest
- Responsibilities to perspective clients are specified
- Competency maintenance is required
- Self-reporting of criminal convictions and suspensions is required
- Many technical clarifications are provided
- Prohibition against misleading client
- Full and fair disclosure of material facts

Standards Effective July 1, 2008

- CFP Board is working to educate stakeholders about revised *Standards*:
 - Revised *Standards* booklet will be mailed to all CFP® certificants by end of 2007
 - CFP® Certification Examination will first test revised *Standards* in July 2008
 - CFP Board-approved ethics CE programs will cover revised *Standards* by July 2008
- Revised *Standards* and comparison charts currently available at www.CFP.net
- Questions about revised *Standards* may be sent to CFP Board by mail or e-mail

Certified Financial Planner Board of Standards, Inc. owns the certification marks CFP®, CERTIFIED FINANCIAL PLANNER™ and federally registered CFP (with flame design) in the U.S., which it awards to individuals who successfully complete CFP Board's initial and ongoing certification requirements.

Discussion

CFP BOARD'S STANDARDS OF PROFESSIONAL CONDUCT

(EFFECTIVE JULY 1, 2008)

- **CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITY**
- **RULES OF CONDUCT**
- **FINANCIAL PLANNING PRACTICE STANDARDS**
- **DISCIPLINARY RULES AND PROCEDURES**




CERTIFIED FINANCIAL PLANNER

BOARD OF STANDARDS, INC.

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Introduction

Certified Financial Planner Board of Standards, Inc. (CFP Board) is a regulatory organization founded in 1985 to benefit 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  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 registrants, CFP Board maintains professional standards necessary for competency in the financial planning profession. Through its *Code of Ethics and Professional Responsibility (Code of Ethics)*, CFP Board identifies the ethical principles certificants and registrants should meet in all of their professional activities. Through its *Rules of Conduct*, CFP Board establishes binding professional 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 its *Rules of Conduct* and establishes a process for applying the Principles of the *Code of Ethics* 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, and in 2003 the 400 series in the Rules was revised. This revision of the *Code of Ethics*, *Rules of Conduct* and *Practice Standards* began in 2005 and takes effect July 1, 2008.

This booklet contains the *Code of Ethics*, *Rules of Conduct*, *Practice Standards* and *Disciplinary Rules* that guide and govern certificants and registrants.

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 registrants 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 registrants. 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 registrants' 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



CERTIFIED FINANCIAL PLANNER™



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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 registrant 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 registrants and certificants to use the CFP® marks. Thus, the Rules 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.

Contents

Terminology in this Booklet

Code of Ethics and Professional Responsibility

Rules of Conduct

Advisory Opinions

Sample Disclosure Forms

Financial Planning Practice Standards

Disciplinary Rules and Procedures

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.
- ▶ “*Certificant*” denotes individuals who are currently certified by CFP Board.
- ▶ “*Certificant's Employer*” denotes any person or entity that employs a certificant or registrant to provide services to a third party on behalf of the employer, including certificants and registrants who are retained as independent contractors or agents.
- ▶ “*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 engages in financial planning using the financial planning process in working with 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 the financial planning process, issues that may be considered include but are not limited to:
 - The client's understanding and intent in engaging the certificant.

- The degree to which multiple financial planning subject areas are involved.
- The comprehensiveness of data gathering.
- The breadth and depth of recommendations.

Financial planning may occur even if the 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 elements:

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

▶ “*Personal financial planning subject areas*” or “*financial planning subject areas*” denotes the basic subject fields covered in the financial planning process which typically include, but are not limited to:

- Financial statement preparation and analysis (including cash flow analysis/planning and budgeting),
- Investment planning (including portfolio design, i.e. asset allocation and portfolio management),
- Income tax planning,
- Education planning,
- Risk management,
- Retirement planning, and
- Estate planning.

▶ “*Registrant*” denotes individuals who are not currently certified but have been certified by CFP Board in the past and have an entitlement, direct or indirect, to potentially 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 *Rules of Conduct* apply to registrants when the conduct at issue occurred at a time when the registrant 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

- 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 the financial planning process, prior to entering into an agreement, the certificant shall provide written information and/or discuss with the prospective client or client the following:
 - a. The obligations and responsibilities of each party under the agreement with respect to:
 - i. Defining goals, needs and objectives,
 - ii. Gathering and providing appropriate data,
 - iii. Examining the result of the current course of action without changes,
 - iv. The formulation of any recommended actions,
 - v. Implementation responsibilities, and
 - vi. 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 the financial planning process, 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 elements above and is used by a certificant or certificant's employer in compliance with state

and/or federal law, or the rules or regulations of any applicable self-regulatory organization, such as a Form ADV or other disclosure, 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 the financial planning process, 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:
 - i. Information related to costs and compensation to the certificant and/or the certificant's employer, and
 - ii. 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 the financial planning process, 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 elements 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 a 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; 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

Overview

Statement of Purpose for *Financial Planning Practice Standards*

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

These *Practice Standards* are intended to:

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

History of Practice Standards

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

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

Format of the *Practice Standards*

Each *Practice Standard* is a statement regarding an element of the financial planning process. It is followed by an explanation of the Standard, its relationship to the *Code of Ethics* and *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 Standards*. 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 the *Rules of Conduct* have 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 the financial planning process 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 the financial planning process. This encourages the public to seek out the services of a financial planning practitioner who uses such an approach.

Upon the Financial Planning Practitioner

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

200-2: Obtaining Quantitative Information and Documents

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

Explanation of this *Practice Standard*

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

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

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

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

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

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

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

Effective Date

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

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

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

Upon the Financial Planning Practitioner

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

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 the financial planning process and increases the confidence in financial planning practitioners who provide this service.

Upon the Financial Planning Practitioner

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

Developing and Presenting the Financial Planning Recommendation(s)

Preface to the 400 Series

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

These three *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 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.

400-2: 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 the financial planning process. The public will seek out those professionals who embrace these *Practice Standards*.

Upon the Financial Planning Practitioner

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

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

Effective Date

January 1, 2002.

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

ARTICLE 1: INTRODUCTION

Certified Financial Planner Board of Standards Inc. (CFP Board) has adopted a *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 certificants and registrants. The *Code of Ethics*, *Rules of Conduct* and *Practice 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[®] and CERTIFIED FINANCIAL PLANNER[™] certification marks for the benefit of the clients and potential clients of certificants and registrants, CFP Board has the ability to enforce the provisions of the *Rules of Conduct* and *Practice Standards*. Adherence to the *Rules of Conduct* and compliance with the *Practice Standards* by certificants and registrants is required, with the potential for CFP Board sanctions against those who violate the regulations proscribed in these documents. CFP Board will follow the disciplinary rules and procedures set forth below when enforcing the *Rules of Conduct* and *Practice Standards*.

ARTICLE 2: DISCIPLINARY AND ETHICS COMMISSION

2.1 Function and Jurisdiction of the Disciplinary and Ethics Commission

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

2.2 Powers and Duties of the Commission

The Commission shall be authorized and empowered to:

- (a) Enlist the assistance of CFP[®] certificants to assist with investigations, or serve temporarily on a Hearing Panel;
- (b) Periodically report to CFP Board's Board of Directors on the operation of the Commission;
- (c) Adopt amendments to these *Disciplinary Rules and Procedures*, subject to review and approval of CFP Board's Board of Directors; and
- (d) Adopt such other rules or procedures as may be necessary or appropriate to govern the internal operations of the Commission.

2.3 Hearing Panel

The Hearing Panel may consist of members of the Commission who have been designated Hearing Panel members, enlisted CFP[®] certificants and up to one individual who is not a CFP[®] certificant. A Panel shall consist of at least three persons. At least one member of every Hearing Panel shall be a member of the Commission and at least two members of every

Hearing Panel shall be CFP® certificants. One member of each Hearing Panel shall serve as Chair of that hearing. The Chair shall rule on all motions, objections and other matters presented in the course of the hearing and must be a voting member of the Commission.

2.4 Disqualification

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

2.5 CFP Board Counsel

CFP Board Counsel may be either full- or part-time employees of CFP Board or may be non-employees who are attorneys. It will be the duty of CFP Board and CFP Board Counsel to maintain an office in such location as approved by CFP Board's Board of Directors to serve as a central office for the filing of requests for the investigation of certificant or registrant conduct, for the coordination of such investigations, for the administration of all disciplinary enforcement proceedings carried out pursuant to these *Procedures*, for the prosecution of charges of wrongdoing against certificants or registrants pursuant to these *Procedures* and for the performance of such other duties as are designated by the Commission or the Chief Executive Officer of CFP Board. CFP Board Counsel shall have ultimate responsibility to the Commission.

ARTICLE 3: GROUNDS FOR DISCIPLINE

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

- (a) Any act or omission which violates the provisions of the *Rules of Conduct*;
- (b) Any act or omission which fails to comply with the *Practice Standards*;
- (c) Any act or omission which violates the criminal laws of any State or of the United States or of any province, territory or jurisdiction of any other country, provided however, that conviction thereof in a criminal proceeding shall not be a prerequisite to the institution of disciplinary proceedings, and provided further, that acquittal in a criminal proceeding shall not bar a disciplinary action;
- (d) Any act which is the proper basis for professional suspension, as defined herein, provided professional suspension shall not be a prerequisite to the institution of disciplinary proceedings, and provided further, that dismissal of charges in a professional suspension proceeding shall not necessarily bar a disciplinary action;
- (e) Any act or omission which violates these *Procedures* or which violates an order of discipline;
- (f) Failure to respond to a request by the Commission, without good cause shown, or obstruction of the Commission, or any panel or board thereof, or CFP Board staff in the performance of its or their duties. Good cause includes, without limitation, an assertion that a response would violate a certificant's or registrant's constitutional privilege against self incrimination;
- (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 Commission may dismiss the matter as either without merit or with a cautionary letter. In all cases, the Commission has the right to require certificants and registrants to complete additional continuing education or other remedial work. Such continuing education or remedial work may be ordered instead of, or in addition to, any discipline listed below. Where grounds for discipline have been established, any of the following forms of discipline may be imposed in these cases where grounds for discipline have been established.

4.1 Private Censure

The Commission may order private censure of certificants or registrants which shall be an unpublished written reproach mailed by the Commission to a censured certificant or registrant.

4.2 Public Letter of Admonition

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

4.3 Suspension

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

4.4 Revocation

The Commission may order permanent revocation of a certificant's or registrant'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 certificant or registrant in a press release, or in such other form of publicity as is selected by the Commission. In some cases when the Commission determines that there are extreme mitigating circumstances it may decide to withhold public notification. Revocation shall be permanent.

4.5 Forms of Discipline Concerning Candidates

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

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

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

ARTICLE 5: INTERIM SUSPENSION STATUS

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

5.1 Issuance of a Show Cause Order

Although a certificant's and registrant's right to use the marks shall not ordinarily be suspended during the pendency of such proceedings, when it appears that a certificant or registrant has been convicted of a serious crime as defined in Article 12.5, or has been the subject of a professional suspension as defined in Article 12.6, or has converted property or funds, has engaged in conduct which poses an immediate threat to the public, or has engaged in conduct the gravity of which impinges upon the stature and reputation of the marks, CFP Board Counsel may issue an Order to Show Cause why the certificant's or registrant'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 certificant or registrant either by personal service or by certified mail, return receipt requested, mailed to the last known address of the certificant or registrant, as provided in Article 17.2.

5.3 Response

All responses to Orders to Show Cause shall be in writing and shall be submitted within twenty (20) calendar days from the date of service of the Order to Show Cause upon the certificant or registrant. The certificant or registrant 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 certificant or registrant fails to file a Response within the period provided in Article 5.3, that certificant or registrant shall be deemed to have waived the right to respond and the allegations set forth in the Order to Show Cause shall be deemed admitted and an interim

suspension will automatically be issued.

5.5 Show Cause Hearing

Upon receiving the certificant's or registrant's response as provided in Article 5.3, a hearing shall be scheduled before no less than a quorum of the Commission. If so requested, the certificant or registrant 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 staff not less than twenty (20) days prior to the scheduled hearing. Any evidence not so submitted may only be admitted by motion at the hearing.

5.6 Interim Suspension

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

5.7 Automatic Reinstatement Upon Reversal of Conviction or Suspension

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

5.8 Publication

It shall be standard procedure to publish the fact of an interim suspension together with identification of the certificant or registrant in a press release.

ARTICLE 6: INVESTIGATION

6.1 Commencement

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

6.2 Procedures for Investigation

Upon receipt of a request for investigation containing allegations which, if true, could give rise to a violation of the *Rules of Conduct*, or upon the acquisition by CFP Board Counsel of information which, if true, could give rise to a violation of the *Rules of Conduct*, the certificant or registrant in question shall be given written notice by CFP Board Counsel that the certificant

or registrant is under investigation and of the general nature of the allegations asserted against the certificant or registrant. The certificant or registrant shall have thirty (30) calendar days from the date of notice of the investigation to file a written response to the allegations with the Commission.

- (a) *No Response.* At the expiration of the thirty (30) calendar-day period if no response has been received, the matter shall be referred to a Hearing Panel.
- (b) *Response.* Upon receipt of a response, CFP Board 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 shall determine if there is probable cause to believe grounds for discipline exists and shall either; (1) dismiss the allegations as not warranting further investigation at this time; (2) dismiss the allegations with a letter of caution recommending remedial action and/or entering other appropriate orders; or (3) begin preparation and processing of a Complaint against the certificant or registrant in accordance with Article 7. For matters that are dismissed, CFP Board Counsel may reserve the right to reopen the investigation in the future if appropriate.

6.4 Disposition

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

ARTICLE 7: COMPLAINT - ANSWER - DEFAULT

7.1 Complaint

An original Complaint shall be prepared by CFP Board staff and forwarded to the certificant or registrant. 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 certificant or registrant is charged and the conduct or omission which gave rise to those charges.

7.2 Service of the Complaint

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

7.3 Answer

All Answers to Complaints shall be in writing. The Answer shall be submitted within twenty (20) calendar days from the date of service of the Complaint on the certificant or registrant. The certificant or registrant 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 certificant or registrant shall respond to every material allegation contained in the Complaint. In addition, the certificant or registrant shall set forth in the Answer any defenses or mitigating circumstances.

7.4 Default and Orders of Revocation and Denial

If the certificant or registrant fails to file an Answer within the period provided by Article 7.4, such certificant or registrant 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 certificant or registrant, consistent with Article 7.3, an Order of Revocation or, in cases involving a candidate for certification, an Order of Denial. Such orders shall state clearly and with reasonable particularity the grounds for the revocation or denial of the certificant's or registrant's right to use the marks. These Orders are subject to the certificant's or registrant's right of appeal as outlined in Article 11.

7.5 Request for Appearance

Upon the filing of an Answer, the certificant or registrant may request an appearance at the hearing before the Hearing Panel, at which the certificant or registrant may present arguments, witnesses and evidence on his/her behalf.

ARTICLE 8: DISCOVERY AND EVIDENCE

8.1 Discovery

Discovery of a disciplinary case may be obtained only after a Complaint has been issued against a certificant or registrant. A certificant or registrant may obtain copies of all documents in the certificant's or registrant's disciplinary file which are not privileged and which are relevant to the subject matter in the pending action before the Hearing Panel. Requests for copies of CFP Board documents must be made to CFP Board Counsel in writing. Release of information contained in a certificant's or registrant'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 certificants or registrants to the Commission for consideration in resolution of the issues raised during an investigation shall be limited to 100 pages. No evidence may be accepted less than thirty (30) days prior to the scheduled hearing, except by motion at the hearing.

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

8.3 Witnesses

Witnesses, if any, shall be identified to CFP Board no later than forty-five (45) days prior to the scheduled hearing. When witnesses are identified, the certificant or registrant 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 Administrative Dismissal

If, upon receipt of a certificant's or registrant's Answer to the Complaint, new information becomes available that may warrant a dismissal of the case prior to review by a Hearing Panel, the Director of the Professional Review Department and the Chair of the Commission shall review all relevant materials and make such determination at that time.

ARTICLE 9: HEARINGS

9.1 Notice

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

9.2 Designation of a Hearing Panel

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

9.3 Procedure and Proof

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

ARTICLE 10: REPORT, FINDINGS OF FACT AND RECOMMENDATION

10.1 Hearing Panel

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

10.2 Report of the Hearing Panel

The Hearing Panel shall report its findings and recommendations to the Commission. 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 Commission with the recommendation that discipline by the Commission 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 Commission enter other appropriate orders .

10.3 Power of the Commission

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

ARTICLE 11: APPEALS

All appeals from orders of the Commission 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 Commission is not appealed within thirty (30) calendar days after notice of the order is sent to the certificant or registrant, such order shall become final.

ARTICLE 12: CONVICTION OF A CRIME OR PROFESSIONAL SUSPENSION

12.1 Proof of Conviction or Professional Suspension

Except as otherwise provided in these *Procedures*, a certificate from the clerk of any court of criminal jurisdiction indicating that a certificant or registrant 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 certificant or registrant has been the subject of an order of professional suspension (as hereinafter defined) by such authority, shall conclusively establish the existence of such conviction or such professional suspension for purposes of disciplinary proceedings and shall be conclusive proof of the commission of that crime or of the basis for such suspension, by the certificant or registrant.

12.2 Duty to Report Criminal Conviction or Professional Suspension

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

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

Upon receiving notice that a certificant or registrant has been convicted of a crime other than a serious crime (as defined herein), CFP Board Counsel shall commence an investigation. If the conviction is for a serious crime or if a certificant or registrant is the subject of a professional suspension, CFP Board shall obtain the record of conviction or proof of suspension and file a Complaint against the certificant or registrant as provided in Article 7. If the certificant's or registrant's criminal conviction or professional suspension is either proved or admitted as provided herein, the certificant or registrant 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 suspension.

12.4 Conviction of Serious Crime or Professional Suspension - Immediate Suspension

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

12.5 Serious Crime Defined

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

12.6 Definition of a Professional Suspension

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

ARTICLE 13: SETTLEMENT PROCEDURE

A certificant, registrant or CFP Board Counsel may propose an Offer of Settlement in lieu of a disciplinary hearing pursuant to these *Procedures*. Submitting an Offer of Settlement shall stay all proceedings conducted pursuant to these *Procedures*.

13.1 Offer of Settlement

Offers of Settlement may be made where the nature of the proceeding, and the interests of the public and CFP Board permit. The Offer of Settlement shall be in writing and must be submitted to CFP Board staff at least 30 days prior to the certificant's or registrant's scheduled disciplinary hearing. A Hearing Panel will consider the Offer and take one of the actions described in Articles 13.2 and 13.3. The Hearing Panel will consider only one Offer of Settlement during the course of a disciplinary proceeding. The Offer must be made in conformity with the provisions of this Article and should not be made frivolously or propose an action inconsistent with the seriousness of the violations alleged in the proceedings. CFP Board Counsel may negotiate a proposed Offer of Settlement with the certificant or registrant and endorse the Offer of Settlement to the Hearing Panel. Only the Commission shall have final decision making authority to accept or reject an Offer of Settlement. Every Offer of Settlement shall contain and describe in reasonable detail:

- (a) The act or practice which the member or person associated with a member is alleged to have engaged in or omitted;
- (b) The principle, rule, regulation or statutory provision which such act, practice or omission to act is alleged to have been violated;
- (c) A statement that the certificant or registrant consents to findings of fact and violations consistent with the statements contained in the offer required by paragraphs 13.1(a) and 13.1(b);
- (d) Proposed Commission action to be taken and a statement that the certificant or registrant consents to the proposed Commission action; and
- (e) 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 Offer of

Settlement is accepted.

13.2 Acceptance of Offer

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

13.3 Rejection of Offer; Counter Offer

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

If the Hearing Panel deems it appropriate, it may make a Counter Settlement Offer to the certificant or registrant modifying the proposed finding(s) of fact, violation(s) and/or discipline. If the Counter Settlement Offer is rejected by the certificant or registrant, the Offer of Settlement and Counter Settlement Offer shall be deemed void and the matters raised in the Complaint will be set for hearing at the next meeting of the Commission. The certificant or registrant shall not be prejudiced by the prior Offer of Settlement or the Counter Settlement Offer, and neither shall be given consideration in the determination of the issues involved in the pending or any other proceeding.

13.4 Publication

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

ARTICLE 14: REQUIRED ACTION AFTER REVOCATION OR SUSPENSION

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

ARTICLE 15: REINSTATEMENT AFTER DISCIPLINE

15.1 Reinstatement After Revocation

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

15.2 Reinstatement After Suspension

Unless otherwise provided by the Commission in its order of suspension, a certificant or registrant who has been suspended for a period of one (1) year or less shall be automatically reinstated upon the expiration of the period of suspension, provided the certificant or registrant files with CFP Board within thirty (30) calendar days of the expiration of the period of

suspension an affidavit stating that the suspended certificant or registrant has fully complied with the order of suspension and with all applicable provisions of these *Procedures*, unless such condition is waived by the Commission in its discretion. A certificant or registrant who has been suspended for a period longer than one (1) year must petition the Commission for a reinstatement hearing within six months of the end of his/her suspension, or failure to do so will result in administrative relinquishment. Before any reinstatement hearing will be scheduled, the certificant or registrant 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 certificant or registrant must prove by clear and convincing evidence that the certificant or registrant has been rehabilitated, has complied with all applicable disciplinary orders and provisions of these *Procedures*, and that the certificant or registrant is fit to use the marks.

15.3 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 shall submit a report of the investigation to the Commission which shall report on the petitioner's past disciplinary record and any recommendation regarding reinstatement.

15.4 Successive Petitions

If an individual is denied reinstatement, he/she must wait two (2) years to again petition for reinstatement. The second petition must be received by CFP Board within six (6) months of the expiration of the two (2) year period, and failure to submit a second petition within this time period will result in the individual's right to use the marks being administratively relinquished. If the second petition is denied, the individual's right to use the marks shall be administratively relinquished.

15.5 Reinstatement Fee

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

ARTICLE 16: CONFIDENTIALITY OF PROCEEDINGS

16.1 Confidentiality

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

16.2 Exceptions to Confidentiality

The pendency, subject matter and status of proceedings conducted pursuant to these *Procedures* may be disclosed if (1) the proceeding is predicated on criminal conviction or professional suspension as defined herein; or (2) the certificant or registrant has waived confidentiality; or (3) such disclosure is required by legal process of a court of law or other governmental body or agency having appropriate jurisdiction; or (4) in proceedings involving a consumer, CFP Board staff contacts the consumer and/or the certificant's or registrant's current and/or former employer to request documents relevant to the proceeding.

ARTICLE 17: GENERAL PROVISIONS

17.1 Quorum

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

17.2 Notice and Service

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

17.3 Costs

In all disciplinary cases wherein a hearing is convened, the Commission will assess against the certificant or registrant the costs of the proceedings. In addition, a certificant or registrant who desires an appearance, whether telephonically or in person, or who submits an Offer of Settlement pursuant to Article 13, will be required to submit hearing costs not less than thirty (30) days prior to the date of the scheduled hearing. In the event that the hearing results in a dismissal without merit, the hearing costs shall be refunded to the certificant or registrant. Hearing costs will not be refunded if the hearing results in any action other a dismissal without merit. A certificant or registrant 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 certificant or registrant is unable to pay the required hearing costs due to financial hardship, the certificant or registrant may submit a written statement explaining his or her financial situation and request a deferral, reduction or waiver of the hearing costs. Upon receipt and review of such request, 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 at least forty-five (45) days prior to the date of the scheduled hearing.

17.4 Electronic Signature

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

ANONYMOUS CASE HISTORIES

Anonymous case histories are available upon request to CFP Board.