

## CFP Board's Business Update Webinar July 9, 2008

### Attendee Questions

CFP® certificants were invited to submit questions before and during CFP Board's Business Update Webinar on July 9, 2008. While the panelists addressed many questions during the live Webinar, the panelists were unable to address all questions received from the more than 500 individuals who participated. Below are the questions submitted for the Webinar, grouped by general category, with responses from CFP Board.

A recording of the Webinar is available at <https://www2.gotomeeting.com/register/452048418>.

CFP Board welcomes questions from CFP® certificants and other CFP Board stakeholders through our toll-free number, 800-487-1497, or to our general e-mail address, [mail@CFPBoard.org](mailto:mail@CFPBoard.org).

Communications to CFP Board's Board of Directors may be directed to [BOD@CFPBoard.org](mailto:BOD@CFPBoard.org).

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### Public Awareness of the CFP® Certification

#### **Q1: Where does CFP® certification stand in comparison with the many other designations out there?**

**A:** CFP® certification has enjoyed steady growth in and out of the United States. There are nearly 58,000 current CFP® certificants in the U.S., a much larger number than any other financial planning-related designation. CFP® certification is cited frequently in the media as a minimum requirement consumers should seek in a financial planner. As a result of CFP Board's work and the high quality of the services individual CFP® certificants provide to their clients, consumer and media recognition of the CFP® certification continues to grow.

#### **Q2: What is CFP Board doing to promote the benefits of using a CFP® professional to the public?**

**A:** CFP Board has many initiatives that promote the benefits of CFP® certification to consumers, the media and those in positions to influence public policy. Our Financial Planning Clinics, and the outreach activities related to those events, are one initiative that reaches the public directly with evidence of the benefits of working with CFP® professionals. Our work with the media has generated frequent references to the CFP® certification as a minimum requirement consumers should seek in a financial planner, often with references to our Financial Planning Resource Kit, which includes the brochure "Why You Should Choose a CERTIFIED FINANCIAL PLANNER™ professional." Each month, CFP Board distributes more than 1,000 of these Kits to consumers across the country. The Bankrate.com site now lists CFP® practitioners exclusively to increase public access to competent



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and ethical financial planners. Later this year, CFP Board will launch a consumer advertising campaign to promote the value of working with CFP® certificants.

**Q3: Marilyn [Capelli Dimitroff, CFP®, 2008 Chair-Elect of CFP Board's Board of Directors] made a statement that the Board's goal is for the public to know that when they hire a CFP® certificant, they will be getting competent, professional. Do they get that now? Isn't the gap that the public does not know what to expect as opposed to CFP® certificants not delivering?**

**A:** Marilyn was reiterating the goal to enhance our public relations and consumer communications activities to ensure that there is wide recognition of CFP® certificants as the most competent and ethical professionals that the public can rely on. The statement was not meant to imply that this is not the case, but simply to step up the activities that will achieve widespread recognition. CFP Board's outreach to the public highlights these standards as the reason the public should seek financial planning services from those who hold CFP® certification, and we work to educate the public on what to expect from CFP® certificants through publications such as "What You Should Know About Financial Planning" and "Why You Should Choose A CFP® Professional" and through ethical standards that are designed to be understood by consumers.

**Q4: What percentage of practicing financial planners nation wide, carry the CFP® designation?**

**A:** As of June 30, 2008, there are 57,967 CFP® certificants in the United States. Because financial planning is not regulated as financial planning, it is difficult to get an exact figure of the number of practicing financial planners. Estimates range from 250,000 to 400,000.

## CFP Board's Current Operations and Activities

**Q1: What task forces has CFP Board established, and what are the purposes of those task forces?**

**A:** During the past year, CFP Board established a Task Force on Continuing Education and a Task Force on Experience. The Task Force on Continuing Education reviewed CFP Board's continuing education policies and operations to determine whether they adequately support the high standards represented by the CFP® certification and whether recommendations should be made. The Task Force on Experience was established to conduct a similar review of CFP Board's work experience requirement for initial certification.

**Q2: Will the Board's agenda be published before the meeting and minutes be published after the meeting?**

**A:** The agenda and minutes of the Board of Directors are not public documents. However, CFP Board will begin publishing a summary of Board of Directors minutes shortly following each meeting. Summaries of recent Board meetings are available on CFP Board's Web site at [www.CFP.net/aboutus/bodmeetings.asp](http://www.CFP.net/aboutus/bodmeetings.asp).

**Q3: According to the Council on Licensing, Enforcement and Regulation, legislators view Certification and licensure as establishing "the minimum entry level standard required to practice", that should not, among other things, present a bar to practice, don't your decision to set the bar as a "gold standard and highest standard" directly conflict with the political reality of the legislative decision making process?**

**A:** CFP® certification has never been viewed as an entry level designation. CFP® certification is not required to practice financial planning and is not a bar to practice.

**Q4: If Health & Money are the two primary concerns, why wouldn't a (PRO) Professional Regulatory Organization similar to the AMA/States be workable for the CFP® certification.**

**A:** CFP Board was established as a national certification body, and the costs and logistics of breaking that into a State-based model would be prohibitive. The discussion of a professional regulatory organization for financial planners is ongoing, and it will likely take some time before tangible results come from that discussion. That discussion is certain to include the benefits and challenges associated with State-based regulation, as can be seen in the current regulatory structure for insurance, securities and investment advice.

**Q5: Ethics was available but limited? Why was that?**

**A:** CFP Board and FPA collaborated to develop a continuing education program on CFP Board's revised Standards featuring members of CFP Board's Board of Directors. As we announced to certificants on June 10, FPA agreed to make the program free to CFP® certificants, and the program was delivered to a full capacity audience. While there are limits to the capacity of any educational program, whether delivered in person or via the Internet, please note that there are currently dozens of continuing education sponsors who provide CFP Board-approved ethics programs covering the revised Standards. A current listing may be generated on CFP Board's Web site at [www.CFP.net/certificants/sponsors.asp](http://www.CFP.net/certificants/sponsors.asp). While CFP Board is not often engaged in delivering continuing education programs, CFP Board has prepared many materials and made many presentations featuring the revised Standards since they were announced in May 2007.

**Q6: Please describe the process that unfolds when unauthorized use of the marks is reported to the board**

**A:** This is a function of CFP Board's legal department. We have staff who investigate unauthorized use of the marks and take action to stop unauthorized use, including legal action when appropriate. Individuals and entities who are found to be using the marks without authorization, or who use the marks improperly, are notified of the errors and provided instructions for correcting the error. Most trademark issues are corrected following this first notification. Situations where corrections are not made in response to multiple requests may require legal action or, in the case of CFP® certificants who fail to respond adequately to the requests, may require professional review proceedings.

**Q7: What about not using the CFP® mark in your e-mail name? Why?**

**A:** The CFP® marks are certification marks owned and controlled by CFP Board. These marks are federally registered with the United States Patent and Trademark Office for specific use by individuals who have met and continue to meet the standards required by CFP Board. The CFP® marks may be used by certificants on their business cards, stationery, Web sites, etc. to demonstrate certification but only if the marks are used in direct association with the name of the certificant. Use of the CFP® marks in an email address would constitute a use of the marks falling outside of the appropriate use of a certification mark under federal law. Inappropriate uses of the CFP® certification marks would put their value at risk, and may result in the loss of protection for these marks.

**Q8: Since the CFP Board is not a Member Organization, what input does a CFP® Certificant have that our interests are represented since we do not vote for the Board. Who is watching to make sure our interests are represented and the deck is not stacked against us?**

**A:** CFP Board's Bylaws require that a majority of the Board of Directors be comprised of individuals who hold CFP® certification, and it has long been our practice to seek out certificants with experiences representing the broad spectrum of business models and philosophies contained within the financial planning profession. We encourage CFP certificants to share their thoughts and raise any concerns with CFP Board. There are formal process for commenting on specific issues released for public comment, and frequent opportunities to reply through surveys. CFP Board also welcomes feedback and suggestions from CFP® certificants. Comments or questions may be directed to CFP Board's Board of Directors at [BOD@CFPBoard.org](mailto:BOD@CFPBoard.org).

**Q9: The old code of conduct etc. had a section stating that if a CFP® certificant knows of activity conducted by another CFP® certificant unbecoming a CFP® certificant or otherwise not right, ethical, etc. we had a duty to report that activity to the CFP Board. I do not see this clause any more. Would you please comment as to why?**

**A:** CFP® certificants are required under CFP Board's Standards to ensure that their own conduct is ethical. The revised Standards do not require CFP® certificants to notify CFP Board when they become aware of conduct by another CFP certificant that may be in violation of the Standards, and it would be inappropriate to require certificants to take actions with regard to their peers that might inadvertently create legal problems. While there is no rule requiring such self-policing, CFP Board appreciates activities by CFP® certificants that promote a positive image of CFP® certification and welcomes information from certificants about questionable conduct by other CFP® certificants.

**Q10: What was the motivation to modifying the ethics standards? Was something broken? If so what, and how do the modifications fix this?**

**A:** CFP Board continually reviews the requirements for CFP® certification and seeks to improve them where appropriate. Changes to the requirements do not imply that something was broken. The development of the revised Standards was intended to maintain the strength of the ethical standards for CFP® certificants, strengthen those standards in several ways relevant to current practices in the profession, and present the standards in a manner easily understood by CFP® certificants and the public they serve.

**Q11: My practice is employee benefits, specifically working with qualified retirement plans. I also sell individual insurance products to fund business planning needs, such as buy-sell, keyman coverage or non-qualified retirement plans. I occasionally sell life and disability insurance to individuals. I have never charged a fee for financial planning. If I do no formal "financial planning," how do I comply with the new standards?**

**A:** CFP Board's revised Standards apply to all CFP® certificants, regardless of whether they provide financial planning. The baseline duty of care for all CFP® certificants is to at all times place the interest of the client ahead of their own. CFP Board encourages all CFP® certificants to read the revised Standards to determine how they apply to their specific business activities.

**Q12: You lay considerable value in the comprehensiveness of data gathering and breadth and depth of recommendations. Does this not return us to the days of first generation practice standards where Certificants will be so burdened with the need to charge exorbitant fees to gather extensive qualitative and quantitative information (or work for free in the case of commission and fee-offset planners) to avoid disciplinary action, that the Board effectively eliminates any chance for stakeholders to work with the poor and middle class client, who cannot afford to pay planners for their time?**

**A:** CFP Board does not require CFP® certificants to provide any specific type of services. When CFP® professionals engage in financial planning, they are expected to comply with the Financial Planning Practice Standards, which provide guidance for each step of the financial planning process. The revised Standards (and the past Standards) give considerable weight to the professional judgment of CFP® professionals, and we expect that CFP® professionals will use their judgment to ensure that their data gathering and recommendations are appropriate for the services they agree to provide a particular client. CFP® professionals currently provide a wide range of services for all types of clients, and we do not expect that to change as a result of the revised Standards.

**Q13: What plans are there for more fully including philanthropic gift planning in the CFP® certification education requirements? What can be done to assist smaller charities who are not in a position to hire experienced, knowledgeable gift planning professionals?**

**A:** CFP Board's financial planning topic list is updated every few years through a process that includes surveying CFP® professionals on their current practices. If CFP® certificants indicate a need to emphasize philanthropic gift planning on the topic list, there may be related adjustments to the topic list. The next survey should take place during 2009, and any resulting adjustments to the topic list will be reviewed by CFP Board's Council on Education. The CFP® certification is focused on personal financial planning provided to individual consumers and families, not planning for charitable or other organizations, so efforts to assist small charities fall outside CFP Board's focus.

**Q14: Regarding CE credits – why is it that a CFP® certificant could take and get credit for 15 hours of approved CE on the topic of, say, Insurance (even though the CFP® certificant in question does no insurance-related planning) but is limited to 2 hours of credit for approved CE on the topic of Ethics? What's more important than Ethics?**

**A:** CFP Board requires CFP® certificants to complete at least 2 hours of continuing education (CE) focused on CFP Board's ethical standards during each two-year certification period. Certificants can take multiple CFP Board-approved ethics courses and receive credit for more than 2 hours of ethics CE. CE credit hours must be related to topics included on CFP Board's financial planning topic list, and general courses on ethics that are not CFP Board-approved but relate to the topic list are also accepted for credit.

**Q15: Regarding the new renewal Terms and Conditions. As I'm understanding the certificant renewal terms and conditions: Sub L when combined with Sub G clearly demonstrate that the Board refuses to stand behind the marks, their fitness or appropriateness for use in our daily practice of financial planning, but, if we are ever sued while providing services in the manner the Board prescribes, in compliance with Terms & Conditions sub H... And, the CFP Board is named as a co defendant in that suit, we stakeholders are expected to reimburse the Board's expensive lawyers and entire defense costs from our own pockets? Better yet, if practice standards or the educational program is found to be flawed or deficient, we wouldn't be able to sue for recovery from the Board because UCC merchantability and fitness waivers and disclaimers are perfectly legal in most states and we're using the education, skill sets, methodology and marks "as-is" and at our own risk. That said, if you won't stand behind your standards, why should we? Can you respond and tell me why you disagree...in detail?**

**A:** CFP Board is committed to protecting the value of the CFP® certification marks, and the language in the terms and conditions of CFP® certification document is not meant to suggest otherwise. We expend substantial resources each year to ensure that the CFP® marks are not misused or used by people and organizations not authorized to do so. While we do intend to renew and maintain registrations for the CFP® marks, we cannot offer a guarantee that those registrations will continue indefinitely. Trademark law changes frequently, and we can not predict what changes in regulation or procedure might affect those registrations or what unforeseen events might cause damage to their value.

The indemnification paragraph of the terms and conditions contains standard language for a license agreement that grants the licensee the right to use the licensor's trademark. If the licensee does something wrong while using the licensor's trademark, it is typical for the licensee to indemnify the licensor for all expenses incurred by the licensor due to the licensee's error or omission. The licensor is usually able to select legal counsel and to have all its expenses paid by the licensee who has caused the suit to be filed.

**Q16: As a CFP® certificant, am I now required to use outside financial planning software to design a written financial plan?**

**A:** CFP® certificants are not required to provide any specific types of services or use any specific tools in support of those services. CFP Board does not require CFP® certificants to provide their clients with written financial plans.

**Q17: Why is the CFP Board defining "fee-only" rather than "fee-only financial planning"?**

**A:** CFP® certificants are engaged in a wide variety of business activities and may provide services other than financial planning for which they receive compensation through fees and/or commissions. The terminology section of CFP Board's revised Standards includes a definition of "financial planning." That definition is referred to in both the definitions of "Fee-only" and "Commission." The restrictions on the use of the "fee-only" term are applicable to financial planning services and other business activities.

## CFP Board's Professional Review and Enforcement Process

**Q1: The coincidence of the resignation of the Board of Professional Review with the revisions of the Code of Ethics is ominous. Are you going to address the issues surrounding the resignations?**

**A:** The unfortunate resignations of Disciplinary and Ethics Commission members were unrelated to the revisions to CFP Board's Standards of Professional Conduct. The issues cited by those resigned members focused on changes to the oversight of the Commission and the addition of legal counsel as a participant in the Commission's ratification meetings. CFP Board's leadership has reached out to the resigned members to address their concerns and proceed in ways that avoid the misunderstandings that lead to their resignations. While we regret the former members' decisions to resign, new members have been appointed to the Commission, and the Commission continues to do its important work to enforce CFP Board's ethical standards.

**Q2: In what way was the prior DEC [Disciplinary and Ethics Commission] not following "due process?"**

**A:** The recent governance changes approved by the Board of Directors should not be viewed as having been necessary to address a problem that existed with regard to the manner in which CFP Board's disciplinary hearings were conducted. Rather, the changes were made to reduce risk and to ensure that the disciplinary process can withstand the highest scrutiny. As an organization that certifies professionals who work directly with the public, CFP Board has an obligation to examine its governance from time to time and, where appropriate, to adopt additional safeguards to ensure that its disciplinary process is fair to certificants and transparent to the public. The recent governance changes strengthen CFP Board's disciplinary process in a number of ways. First, the governance changes clarify that the CEO is accountable for the DEC function and its activities. Previously, the Bylaws were silent as to who had oversight of the DEC. Second, as a result of the governance changes, CFP Board Advisory Counsel now serves in an advisory capacity in the Ratification Meeting by listening to the case presentations by each panel chair and, where appropriate, providing interpretive guidance on CFP Board's *Standards of Professional Conduct* and hearing procedures to ensure a fair and impartial process. Finally, in the interest of ensuring continued independence of the appeals process, CFP Board has retained independent counsel to advise the Appeals Committee on the *Standards* and appeals procedures to ensure the integrity of the process.

In the context of CFP Board's disciplinary process, "due process" means affording every CFP® certificant who comes before the Disciplinary and Ethics Commission the right to a fair and impartial hearing. CFP Board recognizes that there is no greater risk to the organization than to impose unwarranted discipline on a CFP® certificant. CFP Board also understands how valuable the certification marks are to certificants and has, therefore, created steps to ensure that a certificant's right to hold the marks are not taken away arbitrarily. CFP Board believes that the recent governance changes, which have resulted in clearly defined accountabilities and increased transparency, further strengthen an already effective disciplinary process.

**Q3: How does a public person as suggested help to make the ethics hearing process credible to the public? All hearings except for some of the final outcomes are held to very strict privacy rules.**

**A:** Having a public representatives involved in CFP Board's professional review and enforcement processes provides a valuable perspective that complements the "insider" perspectives of the CFP® certificants who serve on hearing panels and the Disciplinary and Ethics Commission. As you note, CFP Board's disciplinary proceedings are subject to strict confidentiality rules. Even in situations where no information is made public about a case, having public representatives involved in the process encourages trust and credibility with the public who might otherwise question the objectivity of a process run entirely by CFP® certificants. It is not uncommon for professional review processes to include public representatives. In fact, it is widely considered a best practice that increases transparency and accountability for a profession.

**Q4: What is level of enforcement before and after 1/1/09?**

**A:** Enforcement of CFP Board's ethical standards will continue at its current level before and after the January 1, 2009 enforcement date for the revised Standards. CFP Board's professional review department and Disciplinary and Ethics Commission continue to review disclosures and allegations of misconduct following CFP Board's *Disciplinary Rules and Procedures*. That process will not change as a result of the revised Standards.

**Q5: What % of complaints come from investment-related problems vs. non-investment advice given?**

**A:** CFP Board does not have readily accessible statistics that address this question. Many complaints received by CFP Board do address issues related to investments, but we also receive complaints that address issues unrelated to investment advice.

**Q6: How does CFP Board intend to protect CFP® certificants from frivolous complaints from the public?**

**A:** All stages of CFP Board's professional review process include review that is designed to identify whether complaints have merit. When CFP Board receives complaints from the public that are shown to be unfounded, those complaints are dismissed. Only complaints accompanied with evidence that appears to verify the allegations are sent to hearing before the Disciplinary and Ethics Commission.

**Q7: Doesn't forcing a CFP® Certificant to pay in advance for hearings fly in the face of a statutory and constitutional presumption of innocence. Why should a CFP® Certificant have to pay anything to mount a defense to prove his innocence?**

**A:** CFP Board's *Disciplinary Rules and Procedures* outlines the investigation and enforcement process for reviewing allegations that a CFP® certificant has violated CFP Board's ethical standards. Article 17.3 indicates that CFP® certificants who request a hearing be assessed the cost of those proceedings. CFP® certificants against whom Complaints are issued are not required to request a hearing and may choose to respond to CFP Board's allegations through written documentation only, without incurring hearing costs. Article 17.3 was also amended in recent years to include provisions for granting hardship waivers and to require hearing costs to be returned to CFP® certificants whose cases are dismissed without merit.

**Q8: Since the Board does intend to interpret whether CFP® certificants are in compliance with the federal investment advisers act, and discipline certificants not in compliance, when will the Board finally address the issue of illegal activities of fee-only planners in the business of insurance and discipline all planners based on the Board's interpretation of each State's insurance laws?**

**A:** CFP Board does not intend to interpret the rules of other entities. It would be inappropriate for CFP Board to presume to interpret or enforce regulations established by other bodies, just as it would be inappropriate for other bodies to interpret or enforce CFP Board's ethical standards.

**Q9: I am a CFP® certificant that works on a team. However, I am not the person who determines planning for clients. What would be my role as a CFP® certificant on the team or what will I be held accountable for even though I am not the primary person who is managing client's investments?**

**A:** The updated Standards apply to all CFP® certificants, regardless of the licenses or registrations each holds, and despite the specific business or compensation structure each uses. CFP Board has authority only over the individuals to whom it has granted CFP® certification; teams as entities and team members not certified by CFP Board are not required to abide by its standards.

CFP Board's application of the updated Standards to a CFP® certificant who functions as a member of a team will focus primarily on the functions performed by the individual. The focus will include a determination of the contributions the CFP® certificant makes to services the team provides to a client. That determination may include evaluating the overall services the team provides to a client as context for the CFP® certificant's contributions.

## CFP Board's Direction and the Future of CFP® Certification

**Q1: What actions can be taken by the Board to either elevate the CFP® marks or advocate for some type of government regulation that will help foster and maintain a competitive edge for CFP® certificants?**

**A:** We're currently working with regulators and other policy groups to ensure they're aware of the high standards for personal financial planning represented by CFP® certification. Part of that includes highlighting the fact that there is no current government regulation of financial planning as financial planning - regulation only covers certain activities (particularly sales activities) that may comprise part of a financial planner's activities.

**Q2: It seems that many others who practice "financial planning" can do so without any type of restriction and therefore can cut corners and this gives them a certain amount of advantage over those of us who choose to follow a different path. Without any standards for the profession in general, it's hard to see how our standards assist us in trying to compete with all these other types of advisors.**

**A:** While we are not close to the day when the title "financial planner" is limited to those with certain licenses or qualifications, as it is in territories such as the United Kingdom, increasing awareness of the personal financial planning profession and the role of CFP® certification within the profession is an important step in that direction.

**Q3: What can the CFP Board do to help CFP® certificants find new career opportunities within community?**

**A:** As a national organization focused on setting and administering the requirements for CFP® certification and creating public awareness of the value of working with CFP® professionals, CFP Board does not have access to information about specific career opportunities in specific locations across the country. The local chapters of the Financial Planning Association are one method CFP® certificants can use to identify opportunities in their communities.

**Q4: How do you view the importance of technology at CFP Board? What are the current information technology initiatives? Is there and/or will there be a CIO at CFP Board?**

**A:** CFP Board's Director of Information Technology and our IT staff are responsible for the technological infrastructure that supports all of CFP Board's operations. Over the past year, the focus has been to move CFP Board's technology hardware from Denver to Washington, DC with as little interruption to our operations as possible. Work continues to progress on that front, and we expect attention will soon turn to improving our database, including the online interface available to CFP® certificants. CFP Board expects to use technology more efficiently in the future. There are no plans to establish a CIO position at CFP Board.

**Q5: How long do you believe it will take for the CFP® certification brand to gain the same acceptance as the CPA mark?**

**A:** The development of a profession is a process that is difficult to measure. The financial planning profession has potential to develop into a profession as vital to the public as the medical, legal and accounting professions, but there are too many factors to account for to make it worthwhile to suggest a timeframe for global recognition of this young profession. The recognition of the CFP® certification as the standard of excellence for personal financial planning continues to grow, and it is our goal to have recognition of the CFP® certification brand increase at an exponential rate.

**Q6: How do you feel about corporations asking their employees to attain and use the CFP® designation when the corporation has no real financial planning platform available?**

**A:** The CFP® certification process provides value to CFP® certificants and their clients, even for those who do not provide financial planning services. CFP Board appreciates that many employers have recognized this. While we would hope that corporations staffed with individuals qualified to provide competent and ethical financial planning services would offer services that make good use of those qualifications, CFP Board does not require CFP® certificants to provide any specific type of service.

**Q7: For non-formally practicing CFP® certificants (according to Merrill Lynch) working at a Broker Dealer, could you anticipate an issue with compliance to "practice standards"?**

**A:** Compliance with CFP Board's *Financial Planning Practice Standards* is required only of CFP® certificants who provide personal financial planning. CFP® certificants who are primarily engaged in brokerage activities who do not provide financial planning are not required to comply with the Practice Standards

**Q8: How does the public distinguish between a CFP® certificant who does not do financial planning from one who does include "material elements" of the process in their practice?**

**A:** All CFP® certificants are required to define the scope of work with clients and potential clients, and part of that process is identifying whether a client relationship will or will not include financial planning services. Disclosures are required even if no financial planning occurs. Sample disclosure form Form OPS (Other Professional Services) identifies disclosures that must be discussed in situations where financial planning is not part of the client engagement. It's intended to benefit the public by not misleading them into thinking that someone who has certification is going to do financial planning when they're not.

**Q9: What is CFP Board's preference as to whom or what body should regulate the independent RIA who holds CFP® certification?**

**A:** Registered investment advisors are currently regulated by the SEC and state regulators. CFP Board has not made any statements proposing changes to that regulatory structure.

**Q10: Why is CFP Board turning into an FINRA “look-alike” organization that is more supportive of the brokerage industry than fee-only RIAs?**

**A:** As a non-profit certifying organization, CFP Board’s organization is nothing like the organization of FINRA, a Self-Regulatory Organization commissioned by the government. CFP Board is compensation-neutral and does not advocate any specific type of business model. CFP Board believes the public can receive ethical and competent financial planning services from CFP® certificants within both the brokerage industry and the investment adviser industry.

**Q11: Why is CFP Board showing preference for fee-only CFP® certificants and making it difficult for CFP certificants employed by broker-dealers? (Example: fiduciary requirement)**

**A:** CFP Board is compensation-neutral and does not advocate any specific type of business model. CFP Board believes the public can receive ethical and competent financial planning services from CFP® certificants within both the brokerage industry and the investment adviser industry. CFP® certificants who are employed by broker-dealers and whose services are primarily brokerage services, not financial planning, are not held to the fiduciary duty of care standard in CFP Board’s revised Standards.

**Q12: What level of interest do you have to become a self regulatory organization for financial planners?**

**A:** One effect of the increased attention to financial regulation is the resurgence of discussions about whether CFP Board is positioning itself as a self-regulatory organization (SRO) for financial planners. While the Board of Directors has not discussed the SRO issue, it will be an issue for discussion by the Public Policy Council that is being formed. The Council is also likely to address issues such as the importance of recognizing financial planning as a distinct profession within the financial services industry and the harm caused to the American public by the fact that people can identify themselves as “financial planners” without having any specific training or expertise.

**Q13: What is Kevin’s (CEO of CFP Board) sense of the future for CFP® certification in the current regulatory reform atmosphere? How will you approach this issue?**

**A:** I believe CFP Board's decision to move to Washington, DC was prescient and timely. Just as CFP Board began to establish its public policy activities, the RAND Report and the Treasury Department's Blueprint have put the issue of financial services regulation in the forefront of public policy debates. Our move to Washington, DC has allowed us to take a seat at the table on important policy issues that have potential to affect the CFP® certification, the CFP® certificant community and the public they serve. Our work with government and regulatory officials has ensured that individuals who will be making decisions on the future of financial services regulation recognize the CFP® certification as a rigorous credential that benefits the public. Another important focus of our work is to protect the value of the CFP® marks, so they remain the recognized standard of excellence for personal financial planning. It is important that CFP Board ensure the ongoing recognition and relevance of CFP® certification through public policy efforts, and that is one of the primary reasons CFP Board relocated to Washington, DC.

## Revised Ethical Standards - Fiduciary Duty of Care for Financial Planning Services

**Q1: What do you see as the potential civil liability for violations of these ethical standards, even without any finding by the CFP Board?**

**A:** The updated Standards were developed to be an enforceable set of requirements that CFP Board can apply to those who hold CFP® certification; they are not meant to be used for third party liability, and that disclaimer of third party liability is stated explicitly in the revised Standards document. Individuals have, in the past, attempted to introduce claims based on CFP Board's ethical standards, and CFP Board does not have information showing that any court or arbitration has made findings of violations of CFP Board rules. CFP Board expects that civil courts and arbitration forums will continue to find that it would be inappropriate for them to interpret or enforce CFP Board's ethical standards or introduce civil liability related to those standards.

**Q2: Isn't the Board's "fiduciary" standard of care, which may be higher than the regulatory standard of care, be the means by which a lawyer obtains a higher civic penalty in litigation than he would otherwise obtain?**

**A:** CFP Board's revised Standards are not meant to be used for third party liability, and that disclaimer of third party liability is stated explicitly in the revised Standards document. Individuals have, in the past, attempted to introduce claims based on CFP Board's ethical standards, and CFP Board does not have information showing that any court or arbitration has made findings of violations of CFP Board rules. CFP Board expects that civil courts and arbitration forums will continue to find that it would be inappropriate for them to interpret or enforce CFP Board's ethical standards or introduce civil liability related to those standards.

**Q3: Recent published articles have quoted many lawyers opining how much easier it will become to prevail against CFP® certificant in insurance litigation. Other than a conflicted in-house counsel, has the Board obtained any unbiased legal opinions to the contrary reflecting regulatory differences in all 50 states and if so, when will they become available. Which major insurance carriers did the Board hold discussions with in order to clear up any conflicts associated with contractual agency relationships and fiduciary obligations owed to the companies by the insurance "agent." If you haven't done so, why not...isn't that extremely reckless?**

**A:** CFP Board's revised Standards are not meant to be used for third party liability, and that disclaimer of third party liability is stated explicitly in the revised Standards document. Individuals have, in the past, attempted to introduce claims based on CFP Board's ethical standards, and CFP Board does not have information showing that any court or arbitration has made findings of violations of CFP Board rules. CFP Board expects that civil courts and arbitration forums will continue to find that it would be inappropriate for them to interpret or enforce CFP Board's ethical standards or introduce civil liability related to those standards. However, please note that CFP Board's ethical standards do require that CFP® professionals offer advice only in areas in which they are competent and that they undertake activities only if properly licensed to do so. When CFP Board learns of a professional suspension or findings of regulatory violations made by licensing bodies, such actions and/or findings constitute grounds for discipline under CFP Board's *Disciplinary Rules and Procedures*.

The development of the revised Standards included review and research by outside counsel as well as diligent efforts to hold discussions and comments from organizations representing CFP® certificants engaged in insurance activities around the country, including major insurance firms. Public comments on the final exposure draft of the revised Standards are available on our Web site at [www.CFP.net/aboutus/Comments.asp](http://www.CFP.net/aboutus/Comments.asp).

**Q4: Can you comment on the fiduciary role that is restricted by the Broker/Dealer?**

**A:** Broker-dealers vary widely in the policies and restrictions they place on their representatives. While federal and state regulation of broker-dealers does not impose a fiduciary duty, courts have increasingly found that some brokerage activities do invoke a fiduciary duty, and some broker-dealers have introduced compliance policies that address that fiduciary duty. CFP Board appreciates the many broker-dealer firms who support CFP certificants and applauds those who allow their representatives to provide clients with financial planning services.

**Q5: I'm not against being a fiduciary or doing best for my clients, but does the CFP Board expect us to perform ALL Financial Planning Elements (or can the CFP Board tell us after the fact that we should have) even if the clients pick, in advance, just a few? What if clients just want a product and we "cross the line" on several elements, does this mean we now must do ALL of them? This is not clear. Disclosures, ethics aren't the issues, but HOW MANY elements are we REQUIRED to and how will client pay for them?**

**A:** CFP® certificants are not required to provide any specific types of services. Part of the revised Standards requires that CFP® certificants work with their clients to establish mutual understanding of the services to be provided. When those services include financial planning or material elements of the financial planning process, the CFP® certificant is required to put key terms of the client agreement in writing (see Rule 1.3) and provide written disclosures of important information such as compensation arrangements and conflicts of interest. There is no requirement that financial planning services be comprehensive or cover every financial planning topic, and written Agreements and disclosures will help ensure there is no "second guessing" of what services the CFP® certificant intends to provide the client.

**Q6: As an insurance agent, is selling an annuity, financial planning and would it need to be in writing?**

**A:** CFP® certificants employ a wide variety of business models, so it's not possible to state how the new disclosure requirements will affect individual practices. Many CFP® certificants use Form ADV Part II or have other existing disclosure documentation that contains the information required to be disclosed. Other CFP® certificants may need to make substantial additions to their disclosure documentation. We encourage all CFP® certificants to review these Rules and the sample disclosure forms to determine whether their current practices include all required disclosures.

**Q7: What qualifies as financial planning? Is it actually providing the plans? What if I only sell products?**

CFP Board's definition of "financial planning" specifically notes that it is not necessary to provide a written financial plan to engage in financial planning. Part of CFP Board's determination of whether an activity rises to the level of financial planning is how much the activity integrates the financial planning process with multiple financial planning subject areas. CFP Board believes that services involving a single subject area alone and applying the financial planning process to that single subject area are not likely to be considered material elements of the financial planning process. Selling an annuity may be an activity that is part of a financial planning engagement, but the activity of selling an annuity is not in itself financial planning.

**Q8: After reviewing the FAQ Q#5, it appears a CFP® certificant could be held to a different standard with different clients on different days. How does that benefit the public? It seems to significantly dilute the perceived benefit of the mark.**

**A:** The revised Standards set a strong baseline duty of care standard that requires CFP® certificants to put the interest of their clients ahead of their own at all times. That significantly strengthens the duty of care required by CFP Board's past Standards ("act in the interest of the client") and is a significant assurance to the public that seeks professional financial planning services. The revised Standards also set a higher, fiduciary standard of care for CFP® certificants who provide financial planning or material elements of the financial planning process. Additionally, the revised Standards require a CFP® certificant to more clearly define the scope of his or her engagement with the client.

**Q9: If a CFP® certificant is trying to avoid the fiduciary standard (and all the disclosure that goes with it) it seems they are incented by "material elements" to NOT collect comprehensive client data. How does that benefit the public? How could they give "best possible recommendations" without comprehensive data gathering?**

**A:** The revised Standards require that all CFP® certificants at all times place the interest of the client ahead of their own, but CFP® certificants who do not provide financial planning services are not held to a fiduciary standard.

Comprehensive data collecting by itself is not financial planning or material elements of the financial planning process. For example, in the sale of an insurance product, the questionnaires the companies use today are quite comprehensive. But if all of that is collected with the limited purpose of finding the proper insurance product, that by itself is not financial planning.

**Q10: Would it be proper to have a client opt out of the fiduciary relationship?**

**A:** Under CFP Board's revised Standards, when a CFP® certificant provides a client with financial planning or material elements of the financial planning process, that CFP® certificant will be held to the duty of care of a fiduciary, as defined by CFP Board. An agreement with a financial planning client "opting out" of the fiduciary relationship will not remove the fiduciary obligation under the revised Standards. A client of a CFP® certificant may terminate the financial planning engagement with a CFP® certificant and still receive other services from the CFP® certificant that do not rise to the level of financial planning. The facts and circumstances of each situation are factors in CFP Board's determination in whether the CFP® certificant engaged in financial planning or material elements of the financial planning process. In general, once a financial planning relationship with a CFP® certificant has been established, all future services provided by the CFP® certificant to the client are likely to be considered by CFP Board to be part of the financial planning process.

**Q11: If CFP Board's overriding definition of fiduciary is to put the client's best interest before your own, why do you need to include, distinguish and define "material elements of FP process"? Whether one is an insurance agent, asset manager or actually does some financial planning in their practice, their duty of care should be the same.**

**A:** CFP Board's revised Standards set a baseline duty of care standard for all who hold CFP® certification and a higher, fiduciary duty of care standard for those CFP® certificants who provide financial planning services. The heightened duty of care for financial planning services reflects current regulation of financial services. CFP Board's revised Standards set a baseline duty of care standard for all who hold CFP® certification and a higher, fiduciary duty of care standard for those CFP® certificants who provide financial planning services. The heightened duty of care for financial planning services reflects current regulation of financial services

**Q12: My practice currently is almost exclusively fee based portfolio management (Wrap Advisor Accounts). If asked to produce a financial plan, I do not charge a separate fee for financial planning. While I understand I must still put the client's interest ahead of my own, I have concerns that the use of the word "fiduciary" may increase my risk from a disgruntled beneficiary at some point in the future. Any thoughts?**

**A:** The updated Standards were developed to be an enforceable set of requirements that CFP Board can apply to those who hold CFP® certification; they are not meant to be used for third party liability. CFP Board nevertheless understands that claimants may attempt to introduce aspects of CFP Board's standards in litigation and arbitration proceedings. Just as it would be inappropriate for CFP Board to interpret or enforce rules established by FINRA, the SEC or state regulators, it would be inappropriate for other bodies to interpret or enforce CFP Board's rules. When CFP Board is made aware of attempts by other bodies to enforce CFP Board's rules against a CFP® certificant, CFP Board can provide the CFP® certificant with documentation that explains CFP Board's jurisdiction over its own rules and affirming that the rules are not meant to create liability to anyone other than CFP Board. Situations like these have occurred in the past with CFP Board's current standards, but CFP Board does not have information showing that any court or arbitration panel has in fact made findings of violations of CFP Board rules. CFP Board believes that compliance with the updated Standards, including the requirement that financial planning services be provided with the duty of a fiduciary, is a way to reduce liability.

**Q13: Do you think the compensation model is the primary reason why a Certificant would not endorse full Fiduciary Standards for all engagements? If so does the New Standard still interfere with compensation type with the Tier I requirement of always placing the clients interest first? (This is the commission vs fee debate) ie... can one place the interest of the client first if the motivation behind a recommendation is earning a commission?**

**A:** CFP Board is compensation neutral and believes the revised Standards are appropriate for all CFP® certificants, regardless of how they are compensated. There are conflicts of interest associated with all compensation models, and CFP Board believes that with full disclosure, and with adherence to the requirement that the client's interest be placed ahead of the certificant's interest, CFP® certificants can provide best recommendations from within any compensation model. For a CFP® certificant who works in a setting where business or regulatory requirements limit the services or investments that can be made available to clients, CFP Board expects any financial planning services provided to be the best services and recommendations available, given the CFP® certificant's reasonable professional judgment and the limitations placed on the CFP® certificant by those business or regulatory requirements. In such situations, the CFP® certificant would be expected to disclose the limitations to the client, including any contractual or agency relationships that have potential to affect the client and any terms under which proprietary products may be offered.

**Q14: My E&O doesn't cover me as a fiduciary. It is intended to cover situations like acting as trustee of a trust. Do you feel defining FP as a fiduciary activity could potentially hurt my E&O coverage.**

**A:** CFP Board encourages its CFP® certificants to meet with their E&O carrier to obtain clarification regarding the definition of "fiduciary" in the certificant's E&O policy. CFP Board believes that the definition of fiduciary in these policies is not intended to exclude financial planning services from coverage under the policy. In some cases, it may be necessary for the E&O carrier to add an endorsement or rider to the policy to specifically state that coverage under the policy applies to financial planners.

**Q15: How do you recommend a CFP® certificant deal with assets outside his control such as allocating an individual's 401K plan as it relates to the following rule 3.4: "A certificant shall clearly identify the assets, if any, over which the certificant will take custody, exercise investment discretion, or exercise supervision."**

**A:** The revised Standards require CFP® certificants to make certain disclosure to clients and potential clients that are designed to develop a mutual understanding of the scope of the certificant's services and the expectations of both parties. (See Rules 1.1, 1.2 and 1.3) In situations where a CFP® certificant agrees to provide services to a client who also receives financial services from other individuals or entities, it is important that the CFP® certificant and client agree on the scope of the engagement and clarify which specific aspects of the client's situation will be addressed by the certificant.

**Q16: How will a stockbroker who is a CFP® certificant be able to hold themselves to the fiduciary standard when the Firm doesn't consider them to be fiduciaries? This sets up an automatic conflict of interest that puts the CFP® certificant at a disadvantage.**

**A:** CFP® certificants whose activities are brokerage services, not financial planning, are required to adhere to the baseline duty of care standard for all CFP® certificants: "at all times place the client ahead of his or her own." CFP® certificants who do not provide financial planning services are not held to the fiduciary standard under the revised Standards.

There are CFP® certificants who are employed as stockbrokers but who provide additional services that rise to the level of financial planning. The broker-dealers

**Q17: Will someone address the role of the CFP® Certificants as a Fiduciary for their clients?**

**A:** CFP Board's revised Standards set a baseline duty of care standard for all who hold CFP® certification and a higher, fiduciary duty of care standard for those CFP® certificants who provide financial planning services. Financial planning encompasses much more than the recommendation and sale of investments and touches many aspects of an individual's financial situation. It would be inappropriate for CFP Board to impose a fiduciary duty on CFP® certificants whose business activities are limited to buying and selling investments and don't rise to the level of financial planning.

**Q18: Are you saying brokers that are CFP® certificants do not need to maintain the Fiduciary standard if they don't do financial plans and only buy and sell investments?**

**A:** The updated Standards do not require a CFP® certificant to adhere to a fiduciary duty of care when engaging solely in sales activity related to brokerage or insurance products, as long as those activities do not rise to the level of financial planning or material elements of the financial planning process.

**Q19: As I understand this, the Fiduciary Standard is not a legal issue in the eyes of the law (i.e an attorney). Enforcement of Fiduciary Standards is up to the board. I am wondering that as a certificant AND as an investment advisor do I need to make sure I clarify that my fiduciary responsibilities pertain only to my role as a CFP® certificant OR can I say that I've chosen to act as Fiduciary in both capacities? Is this a B/D question?**

**A:** CFP Board has sole jurisdiction over its ethical standards, including the fiduciary duty of care the revised Standards introduce for CFP® certificants who provide financial planning or material elements of the financial planning process; CFP Board's *Standards of Professional Conduct* are not intended to create third party liability. CFP Board chose to define "fiduciary" in a specific way it felt appropriate for financial planning services. That definition may not be aligned entirely with definitions of "fiduciary" established by regulators or through the courts. We encourage CFP® certificants to inform their clients of the ethical standards to which CFP Board holds them, and certificants are welcome to discuss other obligations, including any fiduciary obligations, to which they are held by regulators.

**Q20: In reference to those CFP® certificants that work for insurance companies or wire houses that do not require a letter of engagement or operating in a fiduciary capacity, how will the CFP Board enforce the new requirements when these requirements appear to create a conflict between what the CFP Board requires and what the employer is obligated to do?**

**A:** All CFP® certificants agree to adhere to CFP Board's ethical standards, and CFP Board enforces those standards for all certificants, regardless of the business models in which they work. CFP Board has authority only

over individuals who hold CFP® certification; we do not certify organizations or firms that employ CFP® certificants and cannot require those entities to follow our requirements. As the revised Standards were developed, we received comments from employers and organizations that represent certificants. In response to many of those comments, frequent references to "certificant's employer" were added to the Standards to acknowledge the role played by persons and entities that employ certificants. We do understand the important role played by firms that employ certificants, and we have been working with many firms to address questions about the revised Standards and assist them in their work to ensure their certificant employees and associates adhere to the ethical standards for CFP® certification.

**Q21: Why should a CFP® certificant who is doing a financial plan which includes recommendation of insurance be subject to the fiduciary requirements for the recommendation and placement of the specific insurance, whereas if the insurance was acquired on a stand-alone basis, the professional CFP® certificant would not be subject to a fiduciary standard? Theoretically, financial plans can be watered down and, in this instance, insurance dealt with separately and noted in the engagement so the CFP® certificant is not subject to the fiduciary standard in the case of the recommendation of insurance, for example.**

**A:** CFP Board believes the baseline duty of care standard in the revised Standards is appropriate for all CFP® certificants, regardless of whether they provide financial planning, and that the heightened fiduciary duty of care in the revised Standards is appropriate for certificants who provide financial planning services. Financial planning encompasses much more than the services required to recommend an insurance product or brokerage recommendation, and certificants who provide financial planning are therefore held to a higher standard. If a client engagement includes financial planning, individual services cannot be separated from that financial planning engagement; if CFP Board reviews a situation, it will certainly consider the scope of engagement as set forth in any written documentation or agreement that is part of the relationship, but CFP Board will also review the entirety of the relationship to determine whether the services rise to the level of financial planning.

## Revised Ethical Standards - Disclosure Requirements

**Q1: Am I understanding the CFP Board correctly to say that I would need to complete additional disclosures in writing for every client in order to continue using my CFP® designation? Won't CFP Board's new ethical standards hurt smaller clients?**

**A:** CFP Board's revised Standards (and past Standards) require CFP® certificants who provide financial planning services to disclose certain information to clients in writing. CFP® certificants who do not provide financial planning or material elements of the financial planning process are required to make disclosures to clients, but those disclosures can be made verbally and do not need to be in writing. CFP Board's revised Standards benefit clients in many ways, including requiring disclosures that will assist clients in making informed decisions and requiring all CFP® certificants to at all times place the interest of the client ahead of their own.

**Q2: Can we rely on our ADV Part I & II as full disclosure of our client fees and other financial conflicts? Also, if we direct our planning clients to the regulatory websites where these disclosures are maintained, we understand that this is acceptable practice.**

**A:** The revised Standards note that CFP® certificants who use Form ADV or other documents to make disclosures to clients may satisfy CFP Board's disclosure requirements if those documents include all of the elements required to be disclosed under the revised Standards. CFP Board's sample disclosure forms include references to sections of Form ADV that may satisfy specific disclosure requirements, and we encourage CFP® certificants to use those sample forms to evaluate their current disclosure forms.

Rules 1.2 and 2.2 require CFP® certificants to disclose certain information to clients or prospective clients. The Rules allow for any form of delivery to clients. Under Rule 1.2, if the disclosures are made in writing, the certificant must encourage the prospective client or client to review the information and offer to answer any questions from the client or prospective client. CFP Board believes best practice is to disclose such items upon request; before any agreement is signed; or prior to any transaction where the client is expected to pay for a service or product. Notifying the client or prospective client that the disclosure information can be found on an employer's Web site probably does not meet the standard of care required under Rule 1.4, which obligates the certificant to place the client's interest ahead of the certificant's interest.

**Q3: Can the disclosure agreement be open ended or do we have to have a specified termination date for it?**

**A:** There are four elements that must be in the written agreement required by Rule 1.3 of the revised Standards. Those elements include 1) The date of the Agreement and its duration, and 2) How on what terms each party can terminate the Agreement. Taking that into consideration, an Agreement may be open-ended or ongoing in duration, but it must include terms for concluding the Agreement.

**Q4: How do the new disclosure rules affect day to day practice? What information needs to be disclosed? You did not clarify the implementation of disclosure rules.**

**A:** Rules 1.2 and 2.2 outline the information required to be disclosed under the revised Standards. When providing services that do not involve financial planning, a CFP® certificant does have disclosure obligations under Rule 2.2, but those disclosures are not required to be in writing.

**Q5: Can you talk about the disclosure requirements and how do CFP® certificants deal with the fact that their companies must write and approve disclosures - compensation is especially confusing**

**A:** Rules 1.2 and 2.2 outline the information required to be disclosed under the revised Standards. CFP Board has authority only over individuals who hold CFP® certification; we do not certify organizations or firms that employ CFP® certificants. We do understand the important role played by firms that employ certificants, and we have been working with many firms to address questions about the revised Standards and assist them in their work to ensure their certificant employees and associates adhere to the ethical standards for CFP® certification.

**Q6: In terms of disclosure, if a brokerage firm does not consider their relationship with the client to be an advisory relationship, and therefore that the advisor is not acting as a fiduciary, isn't it putting a broker in a terrible conflict to require the fiduciary standard? A firm will not allow a rep to ask for additional disclosure documentation.**

**A:** The updated Standards do not require a CFP® certificant to adhere to a fiduciary duty of care when engaging solely in sales activity related to brokerage or insurance products, as long as those activities do not rise to the level of financial planning or material elements of the financial planning process.

**Q7: Your sample disclosures have right above the signature line "you may file a complaint...." I believe many CFP® certificants will not want to invite complaints by having this be a primary document. I am not against the rights of clients, BUT this is overboard. Perhaps only the "www.CFP.net" site could be mentioned for further information on CFP Board and then on that site show how to file a complaint.**

**A:** The sample disclosure forms are intended to be helpful guides for CFP® certificants, and the information about filing a complaint is not required to be disclosed under the revised Standards. Several sections of CFP Board's Web site do contain information about filing a complaint against a CFP® certificant.

**Q8: What specifically is the difference between Forms FPD & FPDA?**

**A:** Form FPD is a sample disclosure form for financial planning engagements. Form FPDA is a sample form that includes 1) required disclosures for financial planning engagements (contained in Form FPD) and 2) the terms of the written agreement required by Rule 1.3.