

CFP Board Webinar: Practical Applications of the Fiduciary Standard of Care December 9, 2009

Attendee Questions

CFP® certificants were invited to submit questions before and during CFP Board's "Practical Applications of the Fiduciary Standard of Care" Webinar on December 9, 2009. A recording of the Webinar is available at <https://www2.gotomeeting.com/register/579415458> and on YouTube at www.youtube.com/watch?v=jQK9q0if5UY. 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.

CFP Board welcomes questions about the *Standards of Professional Conduct* from CFP® certificants and other CFP Board stakeholders through our toll-free number, 800-487-1497, or to our e-mail address, standards@CFPBoard.org.

General Categories:	Page:
Fiduciary Standard and Baseline Standard	1
Financial Planning Relationships	3
Written Agreement Requirement	7
Disclosure Requirements	7
Other	9

Fiduciary Standard and Baseline Standard

Q1: Please provide a definition of the "baseline" standard of care?

A: The baseline standard of care requires a certificant to, at all times, place the interest of the client ahead of his or her own. This baseline standard applies to all of a certificant's conduct with regard to clients or potential clients, even when a certificant is not providing financial planning services or material elements of financial planning. (See Rule 1.4)

Q2: Which standard of care applies when a CFP® professional sells property and casualty insurance to a client?

A: If a certificant is only selling property and casualty insurance, the baseline standard of care will apply. Once a certificant provides financial planning services or materials elements of financial planning, the fiduciary standard would apply. (Rule 1.4)



Q3: Do high expense, high commission variable annuities ever follow the fiduciary standard? How can that be in the client's best interest?

A: CFP Board does not limit the products a certificant can sell. As long as the sale of the product is performed in the utmost good faith, in a manner the certificant reasonably believes to be in the best interest of the client, a certificant may sell variable annuities while under the fiduciary standard. (Rule 1.4)

Q4: How do I differentiate when "Value Added Advice" might cross a line into fiduciary responsibilities?

A: To determine if a certificant is engaged in financial planning or material elements of financial planning, a certificant should consider the following: 1) The client's understanding and intent in engaging the certificant; 2) The degree to which multiple financial planning subject areas are involved; 3) The comprehensiveness of data gathering; and 4) The breadth and depth of recommendations. (See the definition of "personal financial planning" or "financial planning" in the Terminology Section of the *Standards*). Therefore, if the "value added advice" involves multiple financial planning subject areas, the certificant will be held to the fiduciary standard of care.

Q5: I have four funds that I offer to my clients. I tailor one or more of these funds to fit their needs after I analyze their financial background. Do I satisfy my fiduciary responsibility to my clients? (Scenario 6)

A: Scenario 6 was designed to demonstrate that providing cookie-cutter financial advice, without taking into consideration the investment objectives and risk tolerances of the client, will not satisfy the fiduciary standard of care. It is not the number of funds that is critical. It is how the certificant uses those funds to meet a client's specific needs.

Q6: How is CFP Board's fiduciary definition different than the one(s) being considered by Congress?

A: Generally, the fiduciary standard that has been applied to the Advisers Act differs from CFP Board's fiduciary standard in that the Advisers Act fiduciary standard applies only to recommendations and advice about securities. In contrast, CFP Board's fiduciary standard requires a CFP® professional to "act in utmost good faith, in a manner he or she reasonably believes to be in the best interest of the client" when providing financial planning services. Financial planning services are broader in scope than advice about securities.

At this point, it is too soon to determine concrete differences between CFP Board's fiduciary standard and those being considered by Congress. We will continue to keep all CFP® professionals updated as legislation moves forward in Congress.

Q7: What is the difference between the baseline standard and fiduciary standard if you always have to put the client's interest first?

A: The baseline standard of care requires that a certificant at all times place the client's interests "ahead of his or her own." (See Rule 1.4) This simply means that the certificant cannot consider his own personal interests over those of his client. The fiduciary standard requires a certificant to act "in utmost good faith, in a manner he or she reasonably believes to be in the best interests of the client." (See definition of Fiduciary in the Terminology section of the *Standards*) Under the fiduciary standard, not only is the certificant required to place the interests of the client ahead of his or her own, but the certificant is also required to act in the best interests of the client.

Q8: Does the fiduciary standard still apply when addressing multiple areas but not charging a fee?

A: Per Rule 1.4, when a certificant provides financial planning or material elements of financial planning, the certificant owes to the client the duty of care of a fiduciary. The rules do not distinguish between services for which a fee is received and those where a fee is not received.

Q9: Could the certificant in Scenario 4 of the Webinar be acting in good faith but not in the best interest of the client (two separate aspects of fiduciary standard)?

A: Per Rule 1.4, the duty of care of a fiduciary is defined as one who acts in utmost good faith, in a manner he or she reasonably believes to be in the best interest of the client. Both elements must be present to satisfy the fiduciary standard.

Q10: At what level of financial planning service does the fiduciary standard "begin" to apply? For example is there a bright line as to when it becomes "comprehensive" financial planning?

A: To understand when the fiduciary standard begins is to understand CFP Board's definition of financial planning. CFP Board defines "personal financial planning" or "financial planning" as the integration of the financial planning process with the financial planning subject areas. (See the Terminology sections of the *Standards*).

The financial planning process typically includes some or all of the following steps:

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

The "personal financial planning subject areas" or "financial planning subject areas" typically include:

- Financial statement preparation and analysis,
- Insurance planning and risk management,
- Employee benefits planning,
- Investment planning,
- Income tax planning,
- Retirement planning, and
- Estate planning.

Q11: Should the requirement of observing a fiduciary duty have limits? A CFP® professional may have a business relationship with a client that has nothing to do with the financial service the CFP® professional renders to his client and where their respective interests might not be in perfect alignment. For example, the CFP® professional and the client could be negotiating the purchase and sale of real estate. Having to act "in the best interests of the client" could put the CFP® professional at a disadvantage in the relationship.

A: The fiduciary standard applies only when a certificant's services include financial planning or material elements of financial planning. All certificants should be aware that when engaging in any business transaction with clients, a certificant may have disclosure obligations under the *Rules of Conduct*. (See Rule 2.2(b)) In addition, all certificants are required to at all times put a client's interests ahead of their own (See Rule 1.4) and to treat clients fairly (See Rule 4.1).

Q12: How can anyone who is primarily commission-based and limited to selling products supplied by his/her employer be considered "fiduciary"?

A: The fiduciary standard only applies when a certificant provides financial planning services or material elements of financial planning. If a certificant is simply selling a commission-based products and the sale is not in the context of a financial planning relationship, the baseline standard will apply. (See Rule 1.4)

Q13: Does the fiduciary standard apply to a certificant who does not charge a fee for analyzing an individual's financial situation, and does not sell any products to the individual?

A: The fiduciary standard applies whenever a certificant's services include financial planning or material elements of financial planning irrespective of whether the certificant receives compensation for the services rendered.

Financial Planning Relationships

Q1: Could a CFP® professional who is also a broker avoid the fiduciary standard by segmenting the elements of financial planning into separate meetings so that he isn't addressing multiple areas at once?

A: In determining whether a financial planning engagement exists, CFP Board evaluates the entirety of a client relationship. CFP Board considers all of the circumstances involved, and in particular the following factors: 1) The

client's understanding and intent in engaging the certificant; 2) The degree to which multiple financial planning subject areas are involved; 3) The comprehensiveness of data gathering; and 4) The breadth and depth of recommendations. Thus, the fiduciary standard cannot be avoided by attempting to isolate the services provided in separate meetings with the client.

Q2: Given that you have stated that a CFP® professional who is making recommendations covering at least two of the six subject areas is considered to be providing financial planning services, wouldn't every engagement automatically qualify as "financial planning"? I ask because with practically any type of recommendation, there are income-tax consequences that need to be analyzed.

A: CFP Board's Disciplinary and Ethics Commission has provided the following guidelines to help CFP® certificants determine when their activities constitute financial planning or material elements of financial planning. Some of the primary factors for determining "material elements" are: 1) The client's understanding and intent in engaging the certificant; 2) The degree to which multiple financial planning subject areas are involved; 3) The comprehensiveness of data gathering; and 4) The breadth and depth of recommendations. Using these criteria, it is easy to see some clear distinctions between activities that are likely to be considered financial planning and those that are not.

Activities that may not be material elements of financial planning include:

- Completing paperwork to open an account.
- Solely providing brokerage and/or insurance products or services.
- Engaging in an activity solely related to the sale of a specific 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 continuing education program.

The above are examples and should not be considered an all-inclusive list.

Q3: Many broker-dealers say that their representatives do not give tax advice. Given that investments and taxes are so intertwined, how does one distinguish when tax advice is being given and when it is not?

A: You should always be careful not to "cross-over" into providing anything other than general tax guidance unless you are qualified to do so and are not violating any other rules. This is not something that can be determined by the CFP Board.

Q4: In Scenario 7, to what extent does a CFP® professional have responsibility for evaluating and/or recommending long term care ("LTC") insurance? Can the CFP® professional be held liable if he/she did not address LTC insurance with a client?

A: CFP Board does not advise CFP® professionals about when they should address a specific topic with a client. In some cases, it may be just as important to provide a list of services/areas you *do not* provide advice in as it is to provide a list of the services/areas in which you do provide advice.

Q5: Since a CFP® professional is also most likely a registered investment advisor, doesn't the recommendation of a higher cost option violate the best execution rule of the Advisers Act? Furthermore, wouldn't the CFP® professional be required to provide written notice of his/her commission as required under the Act?

A: Best execution is not based solely on price but also on the services provided by the custodian. Best execution is not applied to individual products purchased without the services of a custodian (such as an insurance policy, or mutual fund purchased from the mutual fund sponsor). CFP Board does not require the CFP® professional to provide disclosure of the exact dollar amount of his/her compensation. In Form ADV and in the disclosures required by CFP Board, a CFP® professional would be required to disclose that he/she is receiving commissions.

Q6: If the prospective client does not sign a financial planning contract, how can he be considered a financial planning client?

A: A client is considered a financial planning client whenever a CFP® professional's services include financial planning or material elements of financial planning. In determining whether the CFP® professional is providing financial planning or material elements of financial planning, factors that may be considered include, but are not limited to: 1) The client's understanding and intent in engaging the certificant; 2) The degree to which multiple financial planning subject areas are involved; 3) The comprehensiveness of data gathering; and 4) The breadth and depth of recommendations. If financial planning services or material elements of financial planning services are provided, a CFP® professional would be required to provide a written financial planning agreement. (Rule 1.3)

In other words, one cannot avoid the requirements just because a financial planning agreement is not signed with the client.

Q7: Is a CFP® professional required to go back to all of his/her existing clients to secure a written agreement? In other words, is this retroactive or does it only pertain to new clients going forward?

A: The CFP® professional should enter into a written agreement with each financial planning client as soon as possible (or at the next client meeting) to ensure compliance with Rule 2.2. CFP® professionals are reminded that the revised *Standards* became effective on January 1, 2009.

Q8: Does an investment policy statement qualify as a financial planning agreement?

A: To be a financial planning agreement, the agreement must contain the information mentioned in Rule 1.3. This information includes: 1) The parties to the Agreement; 2) The date of the Agreement and its duration; 3) How and on what terms each party can terminate the Agreement; and 4) The services to be provided as part of the Agreement.

Q9: On occasion, at a social occasion such as networking event or a party, I have been 'cornered' by someone who wants to discuss their personal investments, annuities or insurance. Should I worry that I could be in a "financial planning" relationship?

A: The *Standards* define a client as a person, persons, or entity who engages a CFP® professional and for whom professional services are rendered. An individual who asks you questions about his/her financial situation is not likely to be viewed as having "engaged" the CFP® professional for the provision of professional services. A CFP® professional could avoid this situation by politely stating that it would not be appropriate to discuss someone's personal financial affairs at a social gathering, provide a business card and ask the individual to call to schedule an appointment.

Q10: If a CFP® professional is choosing between two equally suitable investments for a client, and one pays a significantly higher commission than the other, why is it a violation of either of CFP Board's standards of care for the CFP® professional to consider the commission that he would earn?

A: If the relationship is a financial planning relationship, the certificant's overriding concern is the client and the fiduciary standard – to act in utmost good faith, in a manner he or she reasonably believes to be in the best interest of the client. If it is not a financial planning relationship, the baseline standard applies, requiring the CFP® professional to place the client's interest ahead of his/her own. If the certificant "rationalizes" the sale based on the commission paid, it is probably not in the client's interest to purchase that product.

Q11: How can you make a good product recommendation without first understanding a client's financial planning situation in its entirety?

A: CFP Board agrees that the best recommendations are likely to be made only after a CFP® certificant gains a good understanding of a client's entire financial situation and objectives. At the same time, not all clients are interested in receiving comprehensive financial planning services, and many clients may seek services more limited in scope. All CFP® certificants are obligated to establish mutual agreement with their clients on the services to be provided (Rule 1.1) and to obtain the information necessary to fulfill their obligations to their clients (Rule 3.3).

Q12: In Scenario 9, what if the company's software does not include all aspects of financial planning needed for the discussion with the client, and the company will not let the CFP® professional use non-approved software or presentation techniques?

A: The CFP® professional may not be able to reconcile this conflict. The CFP® professional must always put the interests of the client first. If this standard is at odds with the employer, the CFP® professional may want to consider changing employers.

Q13: My firm's financial planning agreement states that the engagement ends after delivery of the plan. If I implement the plan by selling insurance and investments after delivering the plan, does the fiduciary standard still apply during implementation?

A: Yes. Any time a CFP® professional is providing financial planning services or material elements of financial planning, the fiduciary standard applies. For a discussion on what constitutes material elements of financial planning, please see FAQ #8 at www.CFP.net/Downloads/FAQ_CFP_Board_Standards.pdf.

Q14: As a CFP® professional, if you provide advice to friends or family and there is no fee or compensation of any kind involved, and the advice is independent from your employer, do you need to formalize and document this relationship?

A: The *Standards* do not distinguish between services offered for compensation and those offered pro-bono. Therefore, whenever a CFP® professional is engaged in financial planning or material elements of financial planning, the CFP® professional should comply with the requirements of Rules 1.2, 1.3, 1.4 and 2.2.

Q15: Scenarios 7 & 8 are somewhat similar (losses to client, grave concerns of client, aggressive investment recommendation), yet your answers are completely opposite. Please provide guidance on how to determine what is in the client's "best interest?"

A: The answers differ because the CFP® professional in Scenario 7 is providing advice in more than one subject area (investments and insurance) and, therefore, is offering financial planning services. Hence, the fiduciary standard ("best interests of the client") applies. In Scenario 8, the CFP® professional is providing advice in only one subject area (mutual funds). Consequently, it is the baseline standard of care ("placing the client's interest ahead of the CFP® professional's") that applies.

Q16: If the client does not want to engage in a comprehensive planning relationship, but the CFP® professional ends up offering recommendations to the client in two subject areas, has the CFP® professional breached his fiduciary duty if there isn't a written agreement in place with the client?

A: Any time a CFP® professional's services include financial planning or material elements of financial planning, he/she must enter into a written financial planning agreement. (Rule 1.3) Failure to do so constitutes a violation of the *Rules of Conduct*. For a discussion on what constitutes financial planning, please see FAQ #8 at www.CFP.net/Downloads/FAQ_CFP_Board_Standards.pdf.

Q17: Do CFP® professionals working at brokerage firms as financial advisors who address multiple investment issues and goals with their clients need to provide a written agreement in addition to the client agreement that the firm provides?

A: In determining whether the CFP® professional is providing financial planning or material elements of financial planning, factors that may be considered include, but are not limited to: 1) the client's understanding and intent in engaging the certificant; 2) the degree to which multiple financial planning subject areas are involved; 3) the comprehensiveness of data gathering; and 4) the breadth and depth of recommendations. CFP® professionals involved in client engagements that involve financial planning or material elements of financial planning must make all of the disclosures listed in Rules 1.2, 1.3 and 2.2, and must make those disclosures in writing. These disclosures do not need to be separate from the firm's disclosure documents if all of the disclosures required by CFP Board are contained in the firm's disclosure forms.

Written Agreement Requirement

Q1: Where can I find the template financial planning agreement on CFP Board's Web site?

A: You can find the sample financial planning agreement and sample disclosure forms at www.CFP.net/aboutus/standards.asp#Forms.

Q2: You mentioned during the Webinar that a written agreement with the client is required per the Standards. It is my understanding that a written agreement is recommended, but not required.

A: A written agreement with a client is required whenever a certificant's services include financial planning or material elements of financial planning. (See Rule 1.3) For guidance on what constitutes financial planning or material elements of financial planning, please see FAQ #8 located at www.CFP.net/Downloads/FAQ_CFP_Board_Standards.pdf.

Q3: Are there guidelines for when a financial planning agreement is needed? Is it only when more than one financial planning topic is addressed? Am I correct in assuming that a non-financial planning agreement is still needed? Regardless of compensation, do all clients need to have either a financial planning or a non-financial planning agreement?

A: CFP Board requires that the certificant or the certificant's employer enter into a written agreement with the client when the services to be provided to the client include financial planning. (See Rule 1.3). If the certificant is not providing financial planning services, no agreement is required. For guidance on what constitutes financial planning, please see FAQ #8 located at www.CFP.net/Downloads/FAQ_CFP_Board_Standards.pdf.

Disclosure Requirements

Q1: Where on the CFP Board Web site are the sample disclosure documents that were mentioned during the webinar?

A: Sample disclosure documents and a sample financial planning agreement can be found on CFP Board's Web site at www.CFP.net/aboutus/standards.asp#Forms.

There are three sample disclosure documents:

- Form FPD, for use when providing financial planning services;
- Form FPDA, for use when providing financial planning services and when you wish to address the written agreement requirement and disclosure requirements in one document; and
- Form OPS, for use when providing services other than financial planning.

Q2: How does a broker dealer's "undisclosed compensation" put a CFP® professional at risk of failing to comply with the disclosure requirements of the Standards?

A: Rule 2.2 sets forth the disclosures required of all CFP® certificants when dealing with clients and prospective clients. These required disclosures include "any compensation that may be related to the client engagement" (emphasis added).

Q3: Does the SEC Form ADV comply with the written disclosure requirement of the Standards?

A: Form ADV may satisfy the written disclosure requirement as long as it: (1) contains the items listed in Rule 2.2; and (2) is used in compliance with state and federal laws or the rules or requirements of any applicable self-regulatory organization. (Rule 2.2(e))

If you are not allowed to personalize Form ADV (for example, you work for a large firm and use their RIA), you may need to use a supplemental disclosure form to provide the information required under Rules 1.2, 1.3 and 2.2. If you are operating under your own RIA, your Form ADV may be customized to include all of the necessary information.

Q4: How does the disclosure rule apply to a CFP® professional working in a call center environment where there is not a direct personal relationship with the client?

A: Rule 2.2 applies to any CFP® professional who is working with a client or prospective client, even if all contact with the client or prospective client is by phone. Rule 2.2 sets forth the disclosures required of *all* CFP® certificants when dealing with clients and prospective clients. These disclosures include the following general areas: 1) Any compensation that may be related to the client engagement; 2) Any conflicts of interest that may affect the client engagement; 3) Any relevant information about the certificant or the certificant's employer; and 4) Contact information for the certificant and, if applicable, the certificant's employer.

Q5: If working with clients with limited funds to invest, is it acceptable to use asset allocation funds that meet client objectives, risk tolerance, etc.?

A: With proper and complete disclosure, asset allocation funds may be an appropriate recommendation. It is important that your client understands the risk associated with these funds.

Q6: Rule 2.2 says that Form ADV Part II may satisfy CFP Board's disclosure requirements, so why would a CFP® professional need to give a client a separate document identifying their education and date of birth?

A: The *Rules of Conduct* do not require that a CFP® professional disclose his education and date of birth. The required disclosures and written agreements can be found in Rules 1.2, 1.3 and 2.2.

Q7: With the exception of the requirement for a written agreement when providing financial planning services, does Form ADV satisfy CFP Board's disclosure requirements if it is properly and accurately completed?

A: Provided that Form ADV includes the items in Rule 2.2 and is used in compliance with state and federal laws, or the rules and requirements of any applicable self-regulatory organization, it will satisfy the requirements of Rule 2.2.

Q8: If a CFP® professional works for a broker-dealer, how much specificity is required with regard to disclosure of compensation to a client? As an example, I use an FC resume, introductory material to our firm, our planning process and a standardized disclosure document that shows a range of costs, but not specific fees.

A: CFP Board does not require a CFP® professional to disclose to a client a specific dollar amount or percentage of the compensation to be received for services rendered. However, if a client inquires about the specific dollar amount or percentage the CFP® professional will make on the sale, the CFP® professional has a duty to make that information available to the client.

Q9: In Scenario 2, if Bill had explained his month-end commission deadline to the client, would he have complied with the *Standards*?

A: The disclosure of his month-end commission deadline would help Bill to comply with Rule 2.2. Bill may still be in violation of Rule 1.4 if he is placing his interests ahead of his client's.

Q10: In Scenario 6, doesn't Louise have to disclose the commissions paid by each recommendation, allowing the client to consider those costs?

A: No. Rule 2.2(a) provides that a CFP® professional shall disclose to a prospective client or client an accurate and understandable description of the compensation arrangements being offered. This description must include: 1) information related to costs and compensation to the certificant and/or the certificant's employer, and 2) terms under which the certificant and/or the certificant's employer may receive any other sources of compensation, and if so, what the sources of these payments are and on what they are based. A CFP® professional is not required to disclose the commissions paid by each recommendation, unless the client asks for that information.

Q11: In scenario 9, is Robert Dankin obligated to disclose the amount of the commissions he may earn?

A: CFP Board does not require CFP® professionals to disclose the amount of their compensation, whether it be a specific dollar amount or a percentage of the premium payment. CFP® professionals should be mindful of their obligation to a client pursuant to Rule 1.4.

Q12: Can you provide an example of a written disclosure for insurance and retirement crossovers? This would be helpful in the context of the multiple subject area discussion.

A: CFP Board requires a CFP® professional to provide the disclosures in Rule 2.2. Additionally, when a CFP® professional's services include financial planning or material elements of financial planning, he/she must discuss the items in Rule 1.2.

Q13: Does CFP Board have disclosure documents that I, as a CFP® professional, am required to provide to clients? Are these disclosure documents in addition to what is required by the regional broker-dealer where I work?

A: CFP Board requires a CFP® professional to provide the disclosures listed in Rule 2.2. CFP® professionals who provide financial planning services or material elements of financial planning are also required to provide the disclosures listed in Rules 1.2, 1.3 and 2.2 in writing. If the disclosure documents required by your firm satisfy the requirements of the applicable rules, then you would not be required to make any additional disclosures.

Other

Q1: Are CFP Board's *Standards* applied any differently to a CFP® professional who works in a bank's trust department (not a registered representative, not an investment advisor or investment advisor representative, and is not an insurance agent)?

A: CFP Board's *Standards* are applied consistently to all CFP® professionals, regardless of the capacities in which they are employed. All certificants, even if they are not employed as financial planners, are required to provide services in a manner that complies with the *Standards*.

Q2: In Scenario 6, if you use the same funds and tailor the allocation percentage, then I would argue you are tailoring. You do need to review the core fund periodically but if you have the best six funds, why would you give a worse fund to a client to satisfy reasonableness?

A: Using one fund family or the same six funds for multiple clients does not, in and of itself, cause a CFP® professional to violate the fiduciary standard if he/she is engaged in financial planning. The CFP® professional should make recommendations only after performing data gathering and analysis, and by taking into consideration the investment objectives and risk tolerance of the client. The CFP® professional providing financial planning services would also need to ensure that the recommendation of six funds was in the best interests of the client. If all of a CFP® professional's clients are documented as having similar investment objectives and all are invested in the same percentage allocations in the same six funds, it raises the question of whether the recommendations were made in the clients' best interests or if they were made to minimize the amount of work required from the CFP® professional.

Q3: Regarding Scenario 2, is any sale that is made around a sales incentive deadline inappropriate?

A: Scenario 2 was designed to illustrate a situation where a hypothetical CFP® professional puts his interest of making a sale ahead of the interest of the client. CFP® professionals can make sales around a sales incentive deadline provided that they do not place the need to meet the sales incentive deadline ahead of the interests of the client.

Q4: A CFP® professional working for a publicly traded firm is held responsible for the amount of production he/she generates. In this situation, the CFP® professional has an allegiance to his/her employer which is clearly in conflict with putting the client's interest first. How do you reconcile this?

A: A CFP® certificant may not be able to reconcile this conflict. The CFP® professional must always put the interests of the client first. If this standard is at odds with the employer, the CFP® professional may want to consider changing employers.

Q5: Have you heard of any firms having problems with CFP® professionals using Form FPD with clients? If so, how do you reconcile?

A: CFP Board has not received any information about problems with CFP® professionals using Form FPD with clients.

Q6: In Scenario 6, what if Louise tells her clients that she is using "proprietary" funds?

A: This should be a part of Louise's disclosure to her clients and prospective clients. Rule

Q7: In Scenario 4, you said that some products raise a "red flag." Please elaborate.

A: CFP Board does not make recommendation on any products. The "red flag" comment was in the context of the presenter's perspective as a Chief Compliance Officer and was for discussion purposes only.

Q8: If I'm not currently listed as practicing CFP® professional and want to change my status on the CFP Board Web site, what is the best way to request the update?

A: You can update your information by logging in to your secure online CFP Board account at www.CFP.net/login, then updating the Demographics section of your account. You are also welcome to e-mail your request to CFP Board at mail@CFPBoard.org.

Q9: In Scenario 9, is it acceptable for a CFP® professional to charge a fee for a plan/analysis if no products are purchased and waive his/her fee if a product is purchased?

A: This does not appear to be a violation of CFP Board's *Rules of Conduct*, so long as If this arrangement is disclosed properly.

Q10: In Scenario 3, Jennifer's recommendation of a tax sheltered annuity ("TSA") instead of the Roth IRA assumes that the client's tax rates will be lower in the future. This is based on an understanding of the tax environment, trends, and an agreement between the CFP® professional and the client. If Jennifer uses the same funds in her recommendations but not the same fund mix, is she not acting with the fiduciary standard of care?

A: Your questions would need to be reviewed on a case-by-case basis. The point you raise was not the intended purpose of this scenario. The purpose was to show when the engagement may cross over into financial planning.

Q11: In Scenario 3, recommending a Roth IRA instead of a tax deductible tax sheltered annuity ("TSA") relies on an assumption that tax rates will be higher in the future, since it cannot be known at the time of the investment. How can the CFP® professional act in the client's best interests (and thereby satisfy the fiduciary standard) when the CFP® professional has no idea what will happen to tax rates in the future?

A: Your questions would need to be reviewed on a case-by-case basis. The point you raise was not the intended purpose of this scenario. The purpose was to show when the engagement may cross over into financial planning.

Q12: In Scenario 3, as the CFP® professional was only looking at the tax sheltered annuity ("TSA") vs. a Roth IRA, this does not seem to reach the level of retirement planning and certainly not financial planning. It looks like the CFP® professional was only involved in assessing suitability for retirement saving. Why does the fiduciary standard apply to this situation?

A: The fiduciary standard applies because the CFP® professional is involved in a financial planning relationship with the client. It is a financial planning relationship because the CFP® professional is providing advice in multiple financial planning subject areas – the TSA and Roth IRA (retirement) and a review of the client's group insurance.

Q13: How can we download the slides for this webinar?

A: A recording of the Webinar is available at <https://www2.gotomeeting.com/register/579415458> and on YouTube at www.youtube.com/watch?v=jQK9q0if5UY.