



CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

January 18, 2012

Request for Comment: Proposed Non-Disciplinary Public Disclosure of Single Bankruptcy Filings

Certified Financial Planner Board of Standards, Inc. (CFP Board) requests comments on proposed changes to the way it addresses bankruptcy filings by CFP® professionals and candidates for CFP® certification. The proposed changes are available for review below.

The proposed changes are intended to: (1) Provide notice to the public that a CFP® professional has filed bankruptcy; (2) Create a process in which cases where bankruptcy is the only conduct at issue (bankruptcy-only cases) are disclosed to the public rather than adjudicated in CFP Board's disciplinary process; and (3) Allocate more of CFP Board's resources to investigate other matters such as fraud, misrepresentation and misappropriation of funds.

Comments received during the 30-day comment period, which ends February 17, 2012, will be posted on CFP Board's website and reviewed and considered by CFP Board. Final proposed changes are expected to be presented to the Board of Directors for approval at its March 2012 meeting.

Background

Candidates for CFP® certification are asked on the Initial Application for CFP® Certification whether they have filed bankruptcy. Once an individual attains CFP® certification, the same question is asked on the Renewal Application for CFP® Certification, which a CFP® professional is required to complete every two years. Currently, CFP Board inquires about bankruptcies to determine whether a candidate is fit for CFP® certification and, in the case of a CFP® professional, to determine whether the bankruptcy filing resulted from conduct that could warrant discipline. Each of these approaches is punitive in nature in that candidates may be denied the right to certification for a period of time, and CFP® professionals may receive a sanction as severe as a revocation.

CFP Board proposes replacing the current disciplinary approach to bankruptcy-only cases with a non-disciplinary, disclosure-oriented approach in which the public has access to notice of a bankruptcy filing to assist them in making an informed decision when evaluating whether to work with a CFP® professional who has filed for bankruptcy. CFP Board believes this proposed approach of noting all bankruptcies filed in the past five years in an individual's public profile is aligned with its mission to benefit the public. CFP Board also believes that this proposed approach will benefit CFP® professionals and candidates for CFP® certification because they will no longer be subject to potential discipline in bankruptcy-only cases.

Overview of Proposed Changes

Under the proposed approach, CFP Board would no longer investigate, and the Disciplinary and Ethics Commission (DEC) would no longer adjudicate, bankruptcy-only cases. Rather, CFP Board would verify the bankruptcy filing and note it on the individual's public profile, which is available through the "Find a CFP® Professional" and/or "Verify an Individual's CFP® Certification" search functions in CFP Board's website, as well as through responses CFP Board provides to individuals who contact CFP Board regarding an individual's certification status. This disclosure of the bankruptcy in an individual's public profile would continue for 10 years from the date CFP Board is notified of the bankruptcy, whether through disclosure by the individual or discovery by CFP Board.

Individuals whom CFP Board identifies as having filed a bankruptcy within the past five years would be notified in writing that the bankruptcy disclosure will be noted on their public profile. Individuals would have 30 days from the date of the written notice to dispute the placement of the disclosure on their public profile by demonstrating to CFP Board that they have not, in fact, filed for bankruptcy or that their bankruptcy filing was dismissed. Failure to respond to CFP Board within 30 days would be deemed consent to CFP Board's posting of the disclosure on the individual's public profile.

Individuals who have previously received public discipline from the DEC stemming from the filing of one bankruptcy would be given the opportunity to choose whether they wish to have their previous discipline retracted and replaced with the disclosure in their public profiles. CFP Board would also offer these individuals the option of having CFP Board issue a press release announcing the retraction of the prior discipline.

In situations where CFP Board receives notice of a bankruptcy filing in addition to other conduct involving potential ethics violations subject to investigation under CFP Board's *Disciplinary Rules and Procedures*, CFP Board would continue to refer the matter to the DEC as appropriate but would not allege that the bankruptcy violated a rule or provided grounds for discipline. Rather, the bankruptcy would be a mitigating or aggravating factor the DEC could consider when reviewing the allegations contained in a Complaint. In these cases, CFP Board would still disclose the bankruptcy in the individual's public profile, regardless of the outcome of the matter following the DEC hearing. In addition, CFP Board would continue to refer matters involving two or more bankruptcies to the DEC for its consideration as appropriate.

Under the proposed approach, CFP Board would amend its *Fitness Standards for Candidates and Registrants (Fitness Standards)* to remove the current standard that "one personal or business bankruptcy filed within the last five years" is a "presumptive bar" to CFP® certification that candidates for certification may petition the DEC for consideration. CFP Board anticipates that these amendments will be finalized in the third quarter of 2012. While this amendment is pending, CFP Board will discontinue applying that current standard to cases involving a single bankruptcy filing.

Comment Submission Guidelines

CFP® professionals wishing to comment on the proposal should submit written comments no later than February 17, 2012. Comments may be sent to CFP Board by email to compliance@cfpboard.org or by mail to:

CFP Board
c/o Michael P. Shaw, Esq.
1425 K Street NW #500
Washington, DC 20005

Comments received will be reviewed and considered by CFP Board and will be posted on CFP Board's website in their entirety. If you wish your comment to remain confidential, please omit any personally-identifying information from your comment or include in your comment a clearly-stated request that it not be published.

If, based on the comments received, CFP Board determines that additional changes are needed to the proposed process for addressing and disclosing matters involving a bankruptcy filing, CFP Board may distribute a revised proposal and schedule a second comment period.