

# CFP BOARD REPORT

News From Financial Planning's Professional Regulatory Organization

JULY 2, 2007

## FOCUS ON ETHICS:

### “MATERIAL ELEMENTS OF THE FINANCIAL PLANNING PROCESS”

CFP Board's revised *Standards of Professional Conduct*, which becomes effective July 1, 2008, introduces several new phrases and terms to the ethical rules for CFP® professionals. One of the most important of those phrases is “material elements of the financial planning process,” which appears at four key places in the *Rules of Conduct* (Rules 1.2, 1.3, 1.4 and 2.2). It's a pivotal phrase that determines the terms of the client engagement that must be put in writing, the disclosures that must be made to a client in writing, and the duty of care that a CFP® professional owes to a client.

The revised *Standards* outlines the primary factors that determine whether a CFP® professional's activities are “material elements of the financial planning process” within the definition of “personal financial planning”:

“*Personal financial planning*” or “*financial planning*” denotes the process of determining whether and how an individual can meet life goals through the proper management of financial resources. Financial planning integrates the financial planning process with the financial planning subject areas. In determining whether the certificant is providing financial planning or material elements of the financial planning process, issues that may be considered include but are not limited to:

- The client's understanding and intent in engaging the certificant.
- The degree to which multiple financial planning subject areas are involved.
- The comprehensiveness of data gathering.
- The breadth and depth of recommendations.

The final three bullets identify areas of the financial planning process that can be fairly easily measured: the number of financial planning topics covered during the engagement, the level of detail involved in the review of the client's financial situation, and the comprehensiveness of the recommendations made to the client. The closer the services provided to a client approach the level of comprehensive

financial planning, the more likely those services are “material elements of financial planning process.”

The first of the bullets may seem less clearly measurable, as it relates to the perceptions and understanding of the individual client. But elements of the client’s perceptions are well within the CFP® professional’s ability to monitor, including the way the client describes his or her desired services and the way the services are communicated and presented to the client. If a client specifically describes a desire for financial planning or services that encompass several steps of the financial planning process, or if the CFP® professional characterizes the services as financial planning, it’s not difficult to conclude that the client understands the services to be financial planning.

The definition of “personal financial planning” concludes with two important provisions: “Financial planning may occur even if the elements are not provided to a client simultaneously, are delivered over a period of time, or are delivered as distinct subject areas. It is not necessary to provide a written financial plan to engage in financial planning.” In situations where a CFP® professional provides a client a limited range of services that may not rise to the level of financial planning – perhaps opening a brokerage account and purchasing securities the client has specifically requested – but later expands the range of the services delivered to that client, the two sets of services cannot be considered separate. Services cannot be segmented or staggered to avoid reaching the level of financial planning. The entirety of the client engagement is to be considered when determining whether activities constitute financial planning.

CFP Board's Disciplinary and Ethics Commission (the Commission) has ultimate responsibility for reviewing specific situations to determine whether a CFP® certificant's activities rise to the level of "material elements of the financial planning process." When the Commission reviews situations that may or may involve financial planning, the determination of materiality is made as part of CFP Board's peer review-based hearing process. While financial planning encompasses a diverse range of activities, and it would be impossible to describe all the scenarios in which a CFP® certificant would owe the fiduciary duty of care to clients, the Commission has developed preliminary guidance to help CFP® professionals evaluate whether their services constitute financial planning. Activities that the Commission may consider to be material elements of the financial planning process include:

- Conducting detailed data-gathering regarding multiple aspects of a client's financial situation.

- Analyzing a client's data and making wide-ranging recommendations.
- Providing investment advisory services as defined by the SEC.

Activities the Commission may consider *not* to be material elements of the financial planning process include:

- A broker completing paperwork to open an account.
- Acting as an order-taker for brokerage services.
- Engaging solely in sales activity related to insurance products.
- 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.

These preliminary guidelines are examples and not an all-inclusive list. As we approach the July 1, 2008 effective date of the revised *Standards*, the Commission will be working to develop additional guidelines for identifying “material elements of the financial planning process.” If you have questions about “material elements” or any aspect of the revised *Standards*, please send them to CFP Board at [mail@CFPBoard.org](mailto:mail@CFPBoard.org).

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#### **About the Revised *Standards of Professional Conduct*:**

On May 31, 2007, CFP Board’s Board of Directors announced the adoption of a revised version of CFP Board’s *Standards of Professional Conduct*, which sets forth the ethical standards for CERTIFIED FINANCIAL PLANNER™ professionals. The revised standards are available online at [www.CFP.net/aboutus/Standards.asp](http://www.CFP.net/aboutus/Standards.asp). They become effective July 1, 2008 and apply to the more than 55,000 financial planners in the U.S. who are authorized by CFP Board to use the CFP® certification marks. Questions about the revised Standards may be sent to [mail@CFPBoard.org](mailto:mail@CFPBoard.org). CFP Board encourages CFP® professionals to begin applying the revised *Standards* to their daily practice well in advance of the July 1, 2008 effective date.

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