

CFP BOARD REPORT

News From Financial Planning's Professional Regulatory Organization

SEPTEMBER 5, 2007

FOCUS ON ETHICS:

“AN OVERVIEW OF DISCLOSURE OBLIGATIONS”

The principle of fairness is an important one for CFP Board's ethical standards, and CFP Board's revised *Standards of Professional Conduct*, which becomes effective July 1, 2008, contain several rules designed to give clients a fair chance to understand clearly the services they can expect to receive and the context in which they'll receive those services. Two important rules from the new *Rules of Conduct* describe required disclosures to clients and prospective clients that help them better make informed decisions about the recommendations they may receive.

Rule 2.2 sets forth the disclosures required of all CFP® professionals when dealing with clients and prospective clients. The rule states that a certificant shall disclose to a prospective client or client the following information:

- a. An accurate and understandable description of the compensation arrangements being offered.

This description must include:

- i. Information related to costs and compensation to the certificant and/or the certificant's employer, and
 - ii. Terms under which the certificant and/or the certificant's employer may receive any other sources of compensation, and if so, what the sources of these payments are and on what they are based.
- b. A general summary of likely conflicts of interest between the client and the certificant, the certificant's employer or any affiliates or third parties, including, but not limited to, information about any familial, contractual or agency relationship of the certificant or the certificant's employer that has a potential to materially affect the relationship.
- c. Any information about the certificant or the certificant's employer that could reasonably be expected to materially affect the client's decision to engage the certificant that the client might reasonably want to know in

establishing the scope and nature of the relationship, including but not limited to information about the certificant’s areas of expertise.

- d. Contact information for the certificant and, if applicable, the certificant’s employer.

Certain disclosure obligations in the updated *Standards of Professional Conduct* are specific to financial planning engagements. Rule 2.2 includes in part (e) that the disclosures listed above must be made in writing when the related services include financial planning or “material elements of the financial planning process.” The written disclosures need not be a single newly-created document; the written disclosures may be made through multiple documents or through existing disclosure documents, such as Form ADV, that are used to make disclosures in compliance with state or federal laws, or the rules or requirements of any applicable self-regulatory organization.

Rule 1.2 addresses additional disclosure obligations to clients or prospective clients for engagements that include financial planning or material elements of the financial planning process. The following disclosures required by Rule 1.2 may be made in writing or through discussions with the client or prospective client:

- a. The obligations and responsibilities of each party under the agreement with respect to:
 - i. Defining goals, needs and objectives,
 - ii. Gathering and providing appropriate data,
 - iii. Examining the result of the current course of action without changes,
 - iv. The formulation of any recommended actions,
 - v. Implementation responsibilities, and
 - vi. Monitoring responsibilities.
- b. Compensation that any party to the agreement or any legal affiliate to a party to the agreement will or could receive under the terms of the agreement; and factors or terms that determine costs, how decisions benefit the certificant and the relative benefit to the certificant.
- c. Terms under which the agreement permits the certificant to offer proprietary products.

- d. Terms under which the certificant will use other entities to meet any of the agreement’s obligations.

Rule 1.2 ends with a note that if the information above is disclosed in writing, the certificant shall also encourage the prospective client or client to review the information and offer to answer any questions that the prospective client or client may have.

The updated *Standards of Professional Conduct* also acknowledges that disclosure is not always a one-time event. As a client engagement evolves over time, perhaps with added or re-structured services, ongoing disclosure is also important. Rule 2.2 makes that clear in its concluding statement: “The certificant shall timely disclose to the client any material changes to the above information.” Rather than follow a periodic annual or semi-annual schedule for repeated disclosures, this provision of Rule 2.2 requires that disclosures be updated on an ongoing basis, allowing a client to make informed decisions based on the most current information.

If you have questions about “disclosure obligations” or any aspect of the revised *Standards*, please send them to CFP Board at mail@CFPBoard.org.

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. 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. 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.



CERTIFIED FINANCIAL PLANNER™

CFP®

Certified Financial Planner Board of Standards Inc. owns these certification marks in the U.S., which it awards to individuals who successfully complete CFP Board’s initial and ongoing certification requirements.