CFP BOARD

CASE STUDIES APPLYING THE CODE OF ETHICS AND STANDARDS OF CONDUCT

Updated November 2024 with 4 New Case Studies
(Pages 22, 25, 28 and 76)

PURPOSE

CFP Board developed these case studies to provide practical guidance to CFP® professionals and their firms on the *Code of Ethics and Standards of Conduct*. Each case study presents a hypothetical factual circumstance and then asks a question about a CFP® professional's duty in that circumstance under the *Code and Standards*. The case study presents the response options, identifies the best response, and then discusses the rationale for why that response is the best and why the other response options are not the best. CFP Board intends for these and other case studies to guide CFP® professionals in their application of the *Code and Standards* to their own practice. CFP Board encourages all CFP® professionals to read the *Code and Standards*.

A. DUTIES OWED TO CLIENTS

1. Fiduciary Duty

3. Duty of Competence

5. Disclose and Manage Conflicts of Interest

9. Confidentiality and Privacy

12. Duties When Representing Compensation Method

13. Duties When Recommending, Engaging, and Working with Additional Persons

A. DUTIES OWED TO CLIENTS, 1. FIDUCIARY DUTY:

1: THE FIDUCIARY DUTY APPLIES TO A ROLLOVER RECOMMENDATION

Sarah, a CFP® professional, is engaged by Betty, who is retiring soon, to provide Financial Advice. Betty has most of her retirement funds invested in her employer's 401(k) plan. Sarah does not obtain any information about the 401(k) plan because she assumes that there are more investment options available in an individual retirement account ("IRA") than in Betty's 401(k) plan. Based on this, Sarah believes Betty's portfolio would be better off in an IRA. Sarah properly discloses her Material Conflicts of Interest to Betty. Sarah then recommends that Betty take a distribution from her 401(k) plan and roll the assets into an IRA, which Sarah would manage. Sarah intends to analyze and recommend an investment strategy for the IRA after the funds have been distributed to the IRA.

QUESTION:

Did Sarah satisfy her Fiduciary Duty?

RESPONSE OPTIONS:

A. Sarah satisfied her Fiduciary Duty in recommending the distribution and rollover.

B. Sarah did not satisfy her Fiduciary Duty in recommending the distribution and rollover.

Best Response: Response B is the best response. This case involves the Fiduciary Duty (Standard A.1.) and the definitions of Client and Financial Advice (Glossary).

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and therefore, act in the best interests of the Client. A Client is any person to whom a CFP® professional provides or agrees to provide Professional Services pursuant to an Engagement. Financial Advice includes communications that, based on their content, context, and presentation, would reasonably be viewed as a recommendation to take or refrain from taking a particular course of action with respect to the advisability of investing in, purchasing, holding, gifting, or selling Financial Assets. The Fiduciary Duty includes a Duty of Loyalty, a Duty of Care, and a Duty to Follow Client Instructions.

This case study focuses on the Duty of Care, which requires a CFP® professional to act with the care, skill, prudence, and diligence that a prudent professional would exercise in light of the Client's goals, risk tolerance, objectives, and financial and personal circumstances.

In this case, Sarah has an Engagement with Betty, and has recommended that Betty take a distribution from her 401(k) plan and roll the assets into an IRA. Therefore, Sarah has provided Financial Advice to a Client and is subject to the Fiduciary Duty, including the Duty of Care.

To satisfy the Duty of Care, Sarah should act in light of Betty's goals, risk tolerance, objectives, and financial and personal circumstances. Sarah should compare the features of the 401(k) plan and the potential IRA when making her recommendation to Betty. Sarah should apply the factors that a prudent CFP® professional would determine are relevant, including the relative features and options of the 401(k) plan compared to a rollover IRA, and determine which choice is best for Betty given her goals, risk tolerance, objectives, and financial and personal circumstances. FINRA has identified a non-exhaustive list of factors that are relevant to this analysis, such as the fees and expenses, investment options, services, availability of penalty-free withdrawals, protection from creditors and legal judgments, required minimum distributions, and issues related to investments in employer stock.

Sarah did not act with the care, skill, prudence and diligence that the Duty of Care requires because she recommended the distribution and rollover without analyzing how the features and options of the 401(k) plan compare to the potential IRA. Sarah also should have consulted her firm's policies and procedures, which may specifically address potential rollovers of 401(k) plan assets.

Response A is not the best response because Sarah did not satisfy her Fiduciary Duty (more particularly, her Duty of Care) in recommending the distribution and rollover.

Relevant Standards and Definitions: Fiduciary Duty (Standard A.1.); definitions of Client and Financial Advice (Glossary).

A. DUTIES OWED TO CLIENTS, 1. FIDUCIARY DUTY:

2: THE FIDUCIARY DUTY APPLIES TO AN OPINION ABOUT A FINANCIAL ASSET

Allison is a CFP® professional who is a registered representative of a broker-dealer. Allison has provided brokerage services to her Client, Mateo, several times over the past three years. Typically, Mateo wants to purchase a specific stock and asks Allison for her opinion before purchasing the stock. Mateo recently asked Allison what she "thought" about Mateo buying a specific stock he intended to purchase. Allison told Mateo that she has looked into the company and that she likes the stock and believes it is undervalued. Mateo then directed Allison to purchase the stock.

QUESTION:

Does Allison have a Fiduciary Duty?

RESPONSE OPTIONS:

A. Allison does not have a Fiduciary Duty because Mateo identified the specific stock at issue.

B. Allison has a Fiduciary Duty because she provided Financial Advice when she communicated with Mateo regarding the advisability of purchasing the stock.

C. Allison does not have a Fiduciary Duty because Mateo ultimately directed Allison to buy the stock after Allison communicated with Mateo regarding the advisability of the purchase.

D. Allison has a Fiduciary Duty because she effected the stock transaction for Mateo.

Best Response: Response B is the best response. This case study involves the Fiduciary Duty (Standard A.1.) and the definitions of Client, Financial Advice, and Financial Assets (Glossary).

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and therefore, act in the best interests of the Client. A Client is any person to whom the CFP® professional provides or agrees to provide Professional Services pursuant to an Engagement. Financial Advice includes a communication that, based on its content, context, and presentation, would reasonably be viewed as a recommendation that the Client take or refrain from taking a particular course of action with respect to, among other things, the value of or the advisability of investing in, purchasing, holding, gifting, or selling Financial Assets. Financial Assets include securities, insurance products, real estate, bank instruments, commodities contracts, derivative contracts, collectibles, or other financial products.

Mateo asked Allison about a specific stock before making a decision whether to purchase the stock. The content, context, and presentation of this communication makes clear that Mateo was asking for Allison's recommendation with respect to the advisability of purchasing the stock. When Allison responded to Mateo's question by saying that she likes the stock and that the stock is undervalued, she made a communication that reasonably would be viewed as a recommendation that Mateo purchase the stock. A stock is an equity security, which is a Financial Asset. Mateo is a Client because Allison provided Financial Advice and related services to Mateo pursuant to an Engagement. Therefore, because Allison made a recommendation to a Client about a Financial Asset, she has provided Financial Advice. Since a Fiduciary Duty arises when a CFP® professional provides Financial Advice to a Client, Allison has a Fiduciary Duty, and was required to act as a fiduciary, and therefore, in Mateo's best interests, when providing the Financial Advice.

Response A is not the best response. Allison has a Fiduciary Duty because she provided Financial Advice to Mateo, her Client. A CFP® professional who provides Financial Advice to a Client concerning a specific Financial Asset has a Fiduciary Duty even if it was the Client who asked for information about that Financial Asset.

Response C is not the best response because Allison's obligation to satisfy the Fiduciary Duty does not depend upon whether Mateo directed the transaction. Allison must act as a fiduciary when providing Financial Advice. Allison provided Financial Advice to Mateo because Mateo is a Client and Allison made a recommendation to Mateo about a Financial Asset.

Response D is not the best response. Allison has a Fiduciary Duty because she provided Mateo with Financial Advice.

Relevant Standards and Definitions: Fiduciary Duty (Standard A.1.); definitions of Client, Financial Advice, and Financial Assets (Glossary).

As revised in July 2023.

A. DUTIES OWED TO CLIENTS, 1. FIDUCIARY DUTY:

3: THE DUTY TO FOLLOW A CLIENT'S INSTRUCTION TO USE A SPECIFIC FIRM FOR EXECUTION

Urwa is a CFP® professional who provides asset management services to several Clients. Urwa manages assets in accordance with a standard investment management agreement that she tailors to meet each Client's investment needs. The agreement gives Urwa discretionary authority to buy or sell securities and to select broker-dealers to execute transactions. Urwa's firm charges each Client an advisory fee based on the average value of assets held in the account each quarter.

Urwa receives a call from one of her Clients, Joe, who is a novice investor. Joe tells Urwa that he wants to help advance his sister Susan's career, and he asks Urwa to begin using Susan's firm to execute trades for his non-qualified investment account. Urwa investigates and has concerns that Susan's firm may not provide Joe with best execution because the cost of execution using Susan's firm is higher than other firms where Urwa typically executes trades, and Urwa does not identify an off-setting benefit from using Susan's firm that would justify the higher fee.

QUESTION:

How should Urwa proceed?

RESPONSE OPTIONS:

A. **Tell Joe that she cannot use Susan's firm to execute trades because it would violate Urwa's Fiduciary Duty to Joe, which requires Urwa to seek the best execution of Joe's transactions.**

B. **Agree to Joe's reasonable and lawful direction, which Urwa has an obligation to follow.**

C. **Inform Joe that using Susan's firm to execute transactions may increase transaction costs or otherwise not be advantageous, and thus adversely affect Joe's investment returns. However, if after receiving this information Joe still wants to make the change, Urwa should begin to direct transactions for his account to Susan's firm.**

Best Response: Response C is the best response. This case involves the Fiduciary Duty (Standard A.1.), including the Duty of Care and the Duty to Follow Client Instructions, and the definition of Financial Advice (Glossary).

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and therefore, act in the best interests of the Client. Financial Advice includes the exercise of discretionary authority over the Financial Assets of a Client. The Fiduciary Duty includes a Duty of Loyalty, a Duty of Care, and a Duty to Follow Client Instructions. The Duty of Care requires a CFP® professional to act with the care, skill, prudence, and diligence that a prudent professional would exercise in light of the Client's goals, risk tolerance, objectives, and financial and personal circumstances. The Duty to Follow Client Instructions requires a CFP® professional to comply with all objectives, policies, restrictions, and other terms of the Engagement and all reasonable and lawful directions of the Client.

In this case, Urwa's Engagement with Joe gives Urwa discretionary authority over Joe's Financial Assets. Therefore, Urwa is providing Financial Advice to a Client and must satisfy the Fiduciary Duty. To satisfy the Duty of Care, Urwa must seek best execution of Joe's account transactions. Urwa has learned that if she uses Susan's firm, she may not be able to obtain best execution for his transactions. However, Urwa also must satisfy the Duty to Follow Client Instructions. Joe has instructed Urwa to use Susan's firm for execution because he wants to advance Susan's career.

Urwa should review her firm's policies and procedures concerning execution services to determine, for example, whether she is authorized to execute the transaction with Susan's firm. If there are no firm policies that prevent Urwa from using Susan's firm to execute the transaction, then Urwa should inform Joe that if she uses Susan's firm, he may not receive best execution, which could affect Joe's return on the account or otherwise not be advantageous. If, after being informed of these consequences, Joe still wants Urwa to use Susan's firm for execution, then Urwa should do so.

Response A is not the best response because Joe's instruction to execute trades through his sister's firm reflects his view that using a family member to execute transactions is in his best interests as he understands them. In other words, Joe may be willing to forgo some return on his account to help his sister's career. However, Urwa is required to inform Joe of the consequences of that instruction.

Response B is not the best response because, under these circumstances, Urwa's Fiduciary Duty obliges her to inform Joe of the consequences of his instruction, unless Urwa reasonably believes that Joe already knows those consequences. Since Joe is a novice investor, he likely does not have such an understanding. For that reason, Urwa should explain the issues and consequences so that Joe may make an informed decision. If, after this discussion, Joe still wants to use his sister's firm to execute the transactions, then Urwa is obligated to do so. If the basis for Joe's instruction changes, as would be the case if Urwa learns that Susan has left the firm, then Urwa's Duty of Care would require her to inform Joe of the change in facts and ask Joe to reconsider his instruction.

Relevant Standards and Definitions: Fiduciary Duty (Standard A.1.); definition of Financial Advice (Glossary).

A. DUTIES OWED TO CLIENTS, 1. FIDUCIARY DUTY:

4: THE DUTY TO COMMUNICATE TEAM MEMBER RESPONSIBILITIES

Darnell, a CFP® professional, and Robert, a relationship manager who is not a CFP® professional, work as members of a team at ABC Financial Services Company. A Client has engaged ABC to provide Financial Advice. Darnell and Robert will be working together to formulate and deliver the Financial Advice. ABC does not have policies that identify the respective roles and responsibilities of the various team members.

QUESTION:

As a member of a team, what is Darnell required to do when providing Professional Services to a Client?

RESPONSE OPTIONS:

A. **Darnell's only responsibility is to follow the Financial Advice Engagement, because the Scope of Engagement is the only source of a CFP® professional's responsibilities.**

B. **Darnell must communicate with Robert about how the responsibilities will be allocated between them and determine the scope of services that each person will provide to the Client.**

C. **Darnell should tell Robert that as the relationship manager, Robert should modify the Financial Advice recommendations if he believes that the Client may want to pursue another course of action.**

Best Response: Response B is the best response. This case study involves the Fiduciary Duty (Standard A.1.).

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and therefore, act in the best interests of the Client. The Fiduciary Duty includes the Duty of Loyalty, the Duty of Care, and the Duty to Follow Client Instructions. To fulfill the Duty of Care, a CFP® professional must act with the care, skill, prudence, and diligence that a prudent professional would exercise in light of the Client's goals, risk tolerance, objectives, and financial and personal circumstances.

When a CFP® professional is working as part of a team to provide Financial Advice to a Client, the Duty of Care requires the CFP® professional to communicate with the other members of the team about the scope of their respective services and the allocation of responsibility between them. This might be satisfied by a firm policy or protocol that identifies their respective responsibilities with respect to the services to be provided. In this case, Darnell, Robert, and any other members of the ABC team who may provide services to the Client will need to decide who will perform each of the services the Engagement requires. The duty that arises in this case is analogous to the Duty When Working With Additional Persons, set forth in (Standard A.13.b.i.) that applies to persons outside the firm who are providing Professional Services to the Client.

Response A is not the best response because a CFP® professional's responsibilities extend beyond those that are set forth in the Scope of the Engagement. A CFP® professional also must comply with the requirements set forth in the *Code and Standards*.

Response C is not the best response because the decision to modify a recommendation should not be based upon a "belief" that a Client "may want" to pursue another course of action. Mere speculation is not a proper basis for modifying a recommendation.

Relevant Standards and Definitions: Fiduciary Duty (Standard A.1.).

A. DUTIES OWED TO CLIENTS, 1. FIDUCIARY DUTY:

5: THE FIDUCIARY DUTY TO OBTAIN FACTUAL INFORMATION WHEN WORKING ON A TEAM

Trinh, a CFP® professional, works in her firm's home office, developing Financial Planning recommendations based upon the information that other individuals within her firm collect from Clients. Trinh is developing recommendations for Steven's Clients, Cindy and Terry. Steven obtains from Cindy and Terry their responses to the firm's Financial Planning questionnaire and some documents that Steven requested. Steven sends the documents and questionnaire responses to Trinh and asks Trinh to provide her Financial Planning recommendation(s). Trinh reviews the information and notices that Cindy and Terry have two investment accounts at another firm that constitute a significant portion of their net worth. However, the account statements are two years old and thus are outdated. Trinh's firm does not have policies and procedures for handling this situation.

QUESTION:

What should Trinh do?

RESPONSE OPTIONS:

A. **Use the asset values from the statement Steven obtained from his Clients to develop the Financial Planning recommendation(s).**

B. **Inform a supervisor that Steven failed to explain to his Clients how to properly fill out the questionnaire and gather documents.**

C. **Inform Steven that the statements he obtained are outdated and ask him to obtain current information about the two accounts.**

D. **Use the asset values from the statements and tell Steven to disclose to the Client that the Financial Planning recommendation(s) are based upon the information that the Client provided.**

Best Response: Response C is the best response. This case study involves the Fiduciary Duty (Standard A.1.) and Step 1 of the Financial Planning Process: Understanding the Client's Personal and Financial Circumstances, Obtaining Qualitative and Quantitative Information (Standard C.1.a.).

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and therefore, act in the best interests of the Client. The Fiduciary Duty includes the Duty of Care, which requires a CFP® professional to act with the care, skill, prudence, and diligence that a prudent professional would exercise in light of the Client's goals, risk tolerance, objectives, and financial and personal circumstances. When providing Financial Planning, a CFP® professional also is required to follow the Practice Standards for the Financial Planning Process. The first step in the process is Understanding the Client's Personal and Financial Circumstances, which includes Obtaining Qualitative and Quantitative Information. A CFP® professional must describe to the Client the qualitative and quantitative information concerning the Client's personal and financial circumstances needed to fulfill the Scope of Engagement and collaborate with the Client to obtain the information.

In this instance, Trinh is developing Financial Planning recommendation(s) based upon the information that other individuals in the firm have obtained from the Clients. Therefore, Trinh's ability to fulfill the Scope of Engagement, and to act in the Client's best interests in accordance with her Fiduciary Duty, depends on the work of her colleagues. When a CFP® professional is working with other individuals within a firm as part of a team that is providing services to a Client, the Fiduciary Duty requires the CFP® professional to take reasonable steps to ensure that the Client is receiving Financial Planning that is in the Client's best interests.

In this instance, the CFP® professional first should determine whether the CFP® Professional's Firm has policies and procedures that apply to the situation. In the absence of such policies and procedures, a CFP® professional should inform the other individual within the firm who is providing services to the Client that the CFP® professional believes that updated financial information may be needed for the CFP® professional to provide Financial Advice that is in the Client's best interest and explain the basis for the CFP® professional's belief. The CFP® professional should discuss with the other individual how the services may be provided in the best interests of the Client.

Here, Trinh's firm does not have policies and procedures for handling this situation. Therefore, Trinh should communicate with Steven to resolve the situation. Trinh should explain to Steven that she does not believe she can develop the Financial Planning recommendation(s) until she has reasonably current information about the two accounts, and recommend that Steven obtain more current information. She also should give Steven the opportunity to explain why it would be reasonable to use outdated statements for the services. If updated information cannot be obtained, and the Client reasonably has directed the firm to proceed with the services based on the information provided, then Trinh may proceed to do so.

Response A is not the best response because the information is outdated and the firm may be able to obtain current information. It is unclear from the fact pattern whether Trinh may provide the recommendation(s) without obtaining current information. If the information is of a type that is currently available, and this information is necessary to provide the Financial Planning recommendation(s) in accordance with the Fiduciary Duty, then Trinh must obtain reasonably current information to do so, unless the Client reasonably has instructed the firm to proceed with the information provided.

Response B is not the best response because Trinh does not know whether Steven's instructions to the Clients were improper, Trinh may ask Steven to obtain the information from the Clients or another service provider, and it is premature for Trinh to involve a supervisor.

Response D is not the best response because disclosure does not eliminate Trinh's Fiduciary Duty. To act in the best interests of the Client, Trinh must act with the care, skill, prudence, and diligence a prudent CFP® professional would exercise in these circumstances. That requires obtaining reasonably current asset values before developing the Financial Planning recommendation(s) or determining whether the existing information may be used. If Trinh is able to provide the Financial Planning recommendation(s) in accordance with the Fiduciary Duty without obtaining reasonably current values for the two accounts, then before or when providing the recommendation(s), Trinh should inform Steven that she is relying upon the information that has been provided and that the lack of current information about the value of the two accounts may limit the Financial Planning Recommendation(s).

Relevant Standards and Definitions: Fiduciary Duty (Standard A.1.); Step 1 of the Financial Planning Process: Understanding the Client's Personal and Financial Circumstances, Obtaining Qualitative and Quantitative Information (Standard C.1.a.).

A. DUTIES OWED TO CLIENTS, 1. FIDUCIARY DUTY:

6: THE FIDUCIARY DUTY DOES NOT APPLY WHEN PROVIDING GENERAL FINANCIAL EDUCATIONAL MATERIALS CONCERNING EDUCATION PLANNING

Imani is expecting her first child and wants to know more about 529 savings plans. Imani decides to share her news with Jeff, the CFP® professional whom she had previously engaged solely to provide investment management. During a 30-minute meeting, Jeff provides an overview of how 529 savings plans work, addresses some of Imani's general questions about 529 savings plans, and provides a document titled "529 Plans and Other College Savings Options." Imani thanks Jeff for his time and says she will follow up with him in the next few weeks.

QUESTION:

Did Jeff provide Financial Advice when he met with Imani and gave her the 529 savings plan document?

RESPONSE OPTIONS:

A. Yes, because he made a recommendation.

B. No, because Imani did not pay Jeff for the communication.

C. No, because Jeff provided Imani only general financial education materials.

D. Yes, because a 529 savings plan is an important part of the education planning process.

Best Response: Response C is the best response. This case study involves the definition of Financial Advice (Glossary).

Financial Advice includes a communication that, based on its content, context, and presentation, would reasonably be viewed as a recommendation that the Client take or refrain from taking a particular course of action with respect to, among other things, the value of or the advisability of investing in, purchasing, holding, gifting, or selling Financial Assets. The determination of whether Financial Advice has been provided is an objective rather than subjective inquiry. The more individually tailored the communication is to the Client, the more likely the communication will be viewed as Financial Advice. The provision of services or the furnishing or making available of marketing materials, general financial education materials, or general financial communications that a reasonable CFP® professional would not view as Financial Advice, does not constitute Financial Advice.

Here, a reasonable CFP® professional would conclude that when Jeff provided Imani with an overview of how 529 savings plans work, addressed her general questions about 529 savings plans, and provided an educational document on 529 savings plans, Jeff was providing general financial education and not Financial Advice.

Response B is not the best response because whether Jeff provided Financial Advice does not depend upon whether he receives compensation.

Responses A and D are not the best responses because a reasonable CFP® professional would not view Jeff's communications, which were general in nature and not individually tailored to Imani, as Financial Advice. While a 529 savings plan is an important part of the education planning process, that fact does not turn Jeff's communications to Imani into Financial Advice.

Relevant Standards and Definitions: Definition of Financial Advice (Glossary).

A. DUTIES OWED TO CLIENTS, 1. FIDUCIARY DUTY:

7: THE FIDUCIARY DUTY DOES NOT APPLY WHEN PROVIDING GENERAL FINANCIAL EDUCATIONAL MATERIALS CONCERNING RETIREMENT PLANNING

Kevin, a prospect, met Priya, a CFP® professional, at a community event. Kevin mentioned to Priya that he was planning to retire next year. Priya asked Kevin if she may send him a document her firm prepared that provides an overview of issues to consider when engaging in retirement planning. Kevin agreed. Priya sends Kevin an article titled "What will my savings cover in retirement?" Priya sends this same article to all her Clients and prospects who are within five years of their intended retirement.

QUESTION:

In this instance, does Priya have a Fiduciary Duty?

RESPONSE OPTIONS:

A. **Priya does not have a Fiduciary Duty because she provided only general financial education materials.**

B. **Priya has a Fiduciary Duty because she provided Financial Advice when she sent Kevin information regarding retirement planning.**

C. **Priya has a Fiduciary Duty even though Kevin is a prospect, not a Client to whom Priya is delivering Financial Advice.**

D. **Priya has a Fiduciary Duty because the article includes a section that describes comprehensive Financial Planning.**

Best Response: Response A is the best response. This case study involves the Fiduciary Duty (Standard A.1.), the Duty of Integrity (Standard A.2.), and the definitions of Client, Engagement, and Financial Advice (Glossary). At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and therefore, act in the best interests of the Client. A Client is any person to whom the CFP® professional provides or agrees to provide Professional Services, including Financial Advice, pursuant to an Engagement. An Engagement is an oral or written agreement, arrangement, or understanding. Financial Advice includes a communication that, based on its content, context, and presentation, would reasonably be viewed as a recommendation that the Client take or refrain from taking a particular course of action with respect to, among other things, the value of or the advisability of investing in, purchasing, holding, gifting, or selling Financial Assets.

The determination of whether Financial Advice has been provided is an objective rather than subjective inquiry. The more individually tailored the communication is to the Client, the more likely the communication will be viewed as Financial Advice. The provision of services or the furnishing or making available of marketing materials, general financial education materials, or general financial communications that a reasonable CFP® professional would not view as Financial Advice, does not constitute Financial Advice.

In this case, Kevin has not entered into an Engagement with Priya. Therefore, Kevin is not a Client and Priya does not have a Fiduciary Duty to Kevin. In addition, the article that Priya delivered to Kevin, and other prospects, describes comprehensive Financial Planning and provides an overview of issues to consider when engaging in retirement planning. The article provides financial information that is generally applicable and reasonably would be viewed as general financial education materials. Therefore, Priya has not provided Financial Advice by sending the article to Kevin. However, to satisfy the Duty of Integrity, which applies whenever a CFP® professional is performing Professional Services, the material that Priya sent to Kevin, like all communications, must not be untrue or omit a material fact that is necessary to make the statements made not misleading.

Response C is not the best response because Kevin is not a Client and Priya has not provided Financial Advice. Kevin is not a Client because there was no agreement, arrangement, or understanding for Priya to provide Professional Services to Kevin, and thus, there was no Engagement.

Responses B and D are not the best responses because an article that merely describes Financial Planning and presents an overview of issues to consider when engaging in retirement planning contains general financial education material, which does not constitute Financial Advice.

Relevant Standards and Definitions: Fiduciary Duty (Standard A.1.); Duty of Integrity (Standard A.2.); definitions of Client, Engagement, and Financial Advice (Glossary).

A. DUTIES OWED TO CLIENTS, 1. FIDUCIARY DUTY:

8: WHEN THE DELIVERY OF FIRM RESEARCH DOES NOT CONSTITUTE FINANCIAL ADVICE

Meghan is a CFP® professional who is a registered representative of a broker-dealer. Meghan has a longtime Client, Ted, to whom she provides episodic brokerage services with no responsibility to monitor the brokerage account. Ted contacts Meghan and asks whether Meghan's firm has a research report regarding a specific stock he is considering purchasing. Meghan provides Ted a research report on the stock that her firm prepared. The research report states that the stock is undervalued. Meghan tells Ted that she has not analyzed the stock and is not making a recommendation as to whether Ted should or should not purchase the stock. Ted reviews the research report and then directs Meghan to purchase the stock for him.

QUESTION:

Which of the following best describes Meghan's duty when purchasing the stock for Ted?

RESPONSE OPTIONS:

A. **Meghan does not have a Fiduciary Duty because Ted identified the specific stock at issue.**

B. **Meghan does not have a Fiduciary Duty with respect to Ted's decision to purchase the stock because she did not provide Financial Advice – Meghan did not recommend that Ted purchase the stock.**

C. **Meghan has a Fiduciary Duty because Ted directed Meghan to execute the transaction.**

Best Response: Response B is the best response. This case study involves the Fiduciary Duty (Standard A.1.) and the definitions of Client and Financial Advice (Glossary).

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and therefore, act in the best interests of the Client. A Client is any person to whom the CFP® professional provides or agrees to provide Professional Services pursuant to an Engagement. Financial Advice includes a communication that, based on its content, context, and presentation, would reasonably be viewed as a recommendation that the Client take or refrain from taking a particular course of action with respect to, among other things, the value of or the advisability of investing in, purchasing, holding, gifting, or selling Financial Assets. The determination of whether Financial Advice has been provided is an objective rather than subjective inquiry. The more individually tailored the communication is to the Client, the more likely the communication will be viewed as Financial Advice.

In this circumstance, Ted is Meghan's longtime Client. Meghan responded to Ted's question by providing a research report that her firm prepared. The research report was not individually tailored to Ted's personal and financial circumstances. Meghan also mentioned to Ted that she has not analyzed the stock and is not making a recommendation as to whether Ted should or should not purchase the stock. The content, context, and presentation make clear that Meghan did not recommend that Ted purchase the stock when she provided the research report to Ted. Meghan also did not provide Financial Advice to Ted when Ted requested that Meghan purchase the stock for him. The duty to act as a fiduciary arises when a CFP® professional provides Financial Advice to a Client. Since Meghan did not provide Financial Advice, she was not required to act as a fiduciary with respect to Ted's decision to purchase the stock. If, however, Meghan had a reasonable basis to believe that the transaction was not in Ted's best interests, then Meghan would have an obligation under the *Code of Ethics* to inform Ted that his suggested course of action is not in his best interests, Meghan's reasons therefore, and the possible consequences of taking the course of action.

Response A is not the best response because it does not accurately describe the reason why the Fiduciary Duty does not apply. Meghan is not required to act as a fiduciary with respect to Ted's decision to purchase the stock because she did not provide or agree to provide Financial Advice to Ted about that decision. Whether Meghan must comply with the Fiduciary Duty does not turn on whether Ted requested information regarding the Financial Asset at issue.

Response C is not the best response. Meghan did not provide or agree to provide Ted with Financial Advice as to whether to purchase the stock. A CFP® professional may purchase a stock for a Client without providing Financial Advice about the decision to make that purchase.

Relevant Standards and Definitions: Fiduciary Duty (Standard A.1.); Definitions of Client and Financial Advice (Glossary).

As revised in July 2023.

A. DUTIES OWED TO CLIENTS, 1. FIDUCIARY DUTY:

9: THE FIDUCIARY DUTY WHEN A CLIENT EXHIBITS SIGNS OF LACK OF CAPACITY OR UNDUE INFLUENCE

Gillian, a CFP® professional, is an investment adviser representative of MM Advisers, Inc., a small investment advisory firm. Maria, who has a net worth exceeding $10 million, has been Gillian's Financial Planning Client for approximately 25 years. Maria has one daughter, Nina, who is named as a beneficiary for Maria's investment accounts. While Maria historically has been in good health, she recently has experienced difficulty walking and her vision is declining. Maria's husband passed away 10 years ago, and she now lives by herself. MM Advisers has account opening agreements that request the identity of and contact information for a trusted contact person. The agreements authorize the firm and its advisers to contact the trusted contact person to discuss financial matters about the Client's account, as authorized by the Client in those agreements and in a manner consistent with relevant federal laws and regulations, self-regulatory organization rules, and state and local laws and regulations. In her account opening agreements, Maria designated her friend Wilma as her trusted contact person.

Approximately one year ago, Gillian attended a dinner to celebrate Maria's 75th birthday. Maria introduced Gillian to Mick, her new companion, who is 30 years younger than Maria. Mick is a teacher whose financial resources are much more limited than Maria's. Mick attended Gillian's next Financial Planning review meeting. Mick asked many questions, and Maria authorized Gillian to respond to the questions. At the next Financial Planning review meeting held six months later, Maria attended alone, and asked Gillian an unusually large number of questions about her investments. Maria appeared to be having difficulty understanding her portfolio statements, and evidenced signs of memory lapse. At that meeting, Maria directed Gillian to change the beneficiary designation on her investment accounts from her daughter Nina to Mick. When Gillian asked why she wanted to make the change, Maria explained that she and Mick were in a serious relationship and planned to get married soon. She said that Mick had told her that he would "take care of her" in the future. Gillian gives to Maria the form that MM Advisers requires Clients to execute to effectuate a change in beneficiary.

QUESTION:

Under the circumstances, how should Gillian fulfill her Fiduciary Duty?

RESPONSE OPTIONS:

A. **Refuse to change the beneficiary on Maria's investment accounts.**

B. **Explain to Maria the risks involved in changing the beneficiary designation, document the communication, and then promptly contact Wilma, Maria's trusted contact person, to address her concerns.**

C. **Promptly call the police, because the facts suggest that Mick is exerting undue influence.**

D. **Promptly contact Maria's daughter, Nina, to discuss the matter.**

E. **Follow Maria's instructions to change the beneficiary on Maria's investment accounts to Mick.**

Best Response: Response B is the best response. This case involves the Fiduciary Duty (Standard A.1.) and the definitions of Client and Financial Advice (Glossary).

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and, therefore, act in the best interests of the Client. A Client is any person to whom a CFP® professional provides or agrees to provide Professional Services pursuant to an Engagement. Financial Advice includes communications that, based on their content, context, and presentation, would reasonably be viewed as a recommendation to take or refrain from taking a particular course of action with respect to the development or implementation of a financial plan. The Fiduciary Duty includes a Duty of Loyalty, a Duty of Care, and a Duty to Follow Client Instructions. The Duty of Care requires a CFP® professional to act with the care, skill, prudence, and diligence that a prudent professional would exercise in light of the Client's goals, risk tolerance, objectives, and financial and personal circumstances. The Duty to Follow Client Instructions requires a CFP® professional to comply with all objectives, policies, restrictions, and other terms of the Engagement and all reasonable and lawful directions of the Client.

In this case, Gillian has a Financial Planning Engagement with Maria and is implementing Maria's Financial Plan. Therefore, Gillian is providing Financial Advice to a Client and is subject to the Fiduciary Duty.

Here, Maria has exhibited signs of diminished capacity. A Client who lacks capacity no longer is able to provide a Client instruction. A CFP® professional should be aware of and understand the CFP® Professional's Firm's policies and procedures with respect to a potential lack of capacity or undue influence, as well as any applicable laws, rules, or regulations. A CFP® professional should contact a relevant supervisor or manager to discuss such issues as they arise.

To comply with the Fiduciary Duty, Gillian should talk with Maria about the effect of changing the beneficiary on her accounts and assess whether Maria understands that such a change would mean that Mick, and not her daughter Nina, would receive the investments in her accounts after she passes away. Assuming her firm's policies and procedures allow it, Maria also should promptly contact Wilma, Maria's designated trusted contact person, to address her concerns about Maria's capacity to understand the effect of the change in beneficiary and whether Mick is exercising undue influence over Maria. Gillian also should escalate her concerns to an appropriate manager, and otherwise follow her firm's policies and procedures.

Response A is not the best response because Gillian has a duty to comply with the terms of the Engagement and Maria's reasonable and lawful directions. Gillian does not yet have enough information to determine whether Maria has capacity to provide directions in accordance with the Engagement.

Based on the facts provided, Response C is not the best response because Gillian does not have enough information to suggest that there has been undue influence. However, Gillian should consider relevant laws, rules, and regulations in determining when to contact appropriate governmental authorities.

Response D is not the best response because Nina's status as a beneficiary does not grant Gillian with authority to speak with Nina about Maria's confidential information. Gillian's obligation is to her Client, Maria, and not Maria's daughter.

Response E, which provides for Gillian to follow Maria's instructions, may become an appropriate response, depending on the results of Gillian's discussions with Maria and Wilma and within her firm, her analysis of her firm's policies and procedures, and her continued assessment of Maria's capacity.

As a best practice, a CFP® professional should consider including requests for the identity and contact information for a trusted contact person in account opening agreements or other appropriate documents that will provide authorization to contact a trusted person in appropriate circumstances. A CFP® professional also should be aware of and understand the CFP® Professional's Firm's requirements with respect to these matters, and comply with other relevant federal, self-regulatory organization, and state and local laws, rules, and regulations.

Relevant Standards and Definitions: Fiduciary Duty (Standard A.1.); Definitions of Client and Financial Advice (Glossary).

A. DUTIES OWED TO CLIENTS, 1. FIDUCIARY DUTY:

10: APPLYING THE FIDUCIARY DUTY TO CLIENT INSTRUCTIONS THAT CONFLICT WITH THE DUTY OF CARE

Holly, a CFP® professional, has an Engagement with Pat to provide Financial Advice addressing long-term investing for retirement and other needs later in life. Pat indicates that he is socially conscious and would be interested in investing in companies that are consistent with his views. Holly tells Pat that there are environmental, social, and corporate governance ("ESG") mutual funds that are consistent with Pat's goals. Pat responds that he would like to see what those look like.

Holly collects information about Pat's goals, risk tolerance, objectives, and financial and personal circumstances. She then develops an appropriate asset allocation and begins reviewing ESG investments that would fill the allocations for the asset classes. As she does that work, Holly discovers that, in two of the asset classes, while ESG funds are available, the ESG funds for those asset classes are not funds that Holly, based on her analysis, believes are the best available options for Pat.

QUESTION:

What should Holly do to fulfill her Fiduciary Duty?

RESPONSE OPTIONS:

A. **Recommend ESG funds for those two asset classes because Pat had indicated that he was interested in ESG funds.**

B. **Review her conclusions with Pat, explain the reasons why she would not recommend the funds, and ask Pat whether he would be interested in considering non-ESG investments.**

C. **Inform Pat that she cannot proceed with the Engagement because the only ESG funds that are available in the relevant asset classes are ESG funds that she normally would not recommend.**

Best Response: Response B is the best response. This case study involves the Fiduciary Duty (Standards A.1.) including the Duty of Care (Standard A.1.b.) and the Duty to Follow Client Instructions (A.1.c.).

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and therefore, act in the best interests of the Client. Under the Duty of Care, a CFP® professional must act with the care, skill, prudence and diligence that a prudent professional would exercise in light of the Client's goals, risk tolerance, objectives and financial and personal circumstances. Under the Duty to Follow Client Instructions, a CFP® professional must comply with all objectives, policies, restrictions, and other terms of the Engagement and all reasonable and lawful directions of the Client.

When a CFP® professional realizes that the Client's suggested course of action is not, in the CFP® professional's judgment, in the Client's best interests, the CFP® professional must fulfill the Duty of Care and the Duty to Follow Client Instructions by informing the Client of that conclusion, the CFP® professional's reasons therefore, and the possible consequences of taking the course of action. If the Client specifically directs the CFP® professional to follow instructions that are reasonable and lawful, then the CFP® professional is obligated to follow those instructions. When a CFP® professional cannot identify prudent recommendations due to Client restrictions, the CFP® professional must exercise due care in selecting from among the pool of investments that comply with the Client direction.

In this case, Pat merely has indicated an interest in ESG funds and has not specifically directed Holly to invest exclusively in ESG funds. Holly should review her conclusions with Pat, explain the reasons why she normally would not recommend ESG funds in this circumstance, and ask Pat whether he would prefer to invest in the ESG funds or consider non-ESG investments. If Pat directs that only ESG funds be used for his account, then Holly should follow those instructions and select the ESG funds in these categories that she reasonably believes are the best available options.

Response A is not the best response because an indication of interest is not a clear direction only to recommend ESG funds. Once Holly informs Pat that she could not identify ESG funds in certain categories that satisfy her Duty of Care, and why, Pat may provide clear and explicit instructions.

Response C is not the best response because a CFP® professional must follow a Client's reasonable and lawful directions, even if those directions might appear to require recommendations that the CFP® professional otherwise would not make. Accordingly, under these facts, a CFP® professional would not be required to resign from the Engagement.

Relevant Standards and Definitions: Fiduciary Duty (Standard A.1.); Duty of Care (Standard A.1.b.); Duty to Follow Client

11: THE FIDUCIARY DUTY AND AN A SHARE CLASS RECOMMENDATION

John, a CFP® professional, works at NestEgg, a broker-dealer. John receives commissions as well as a bonus if he meets his quarterly sales goals. His Client, Emily, recently received a $75,000 inheritance. She asks John for investment recommendations. After gathering information, John determines that Emily does not need to use the funds for at least 15 years, when she expects to make a down payment on a retirement home. John recommends that Emily invest in a portfolio of mutual funds. John explains to Emily that he recommends only mutual funds that charge a sales load or bear some other type of sales charge, such as a 12b-1 distribution or marketing fee, which compensate him (and his firm) for his services. Emily tells John that she understands she will be paying such a fee in working with him.

John recommends that Emily invest in a mix of equity and bond funds from a family of mutual funds that John believes are the best match for Emily from among those available for him to recommend. Each fund has two different classes of shares that offer Sales-Related Compensation. Each class offers the identical investment experience except for the fees that investors will directly (sales load) or indirectly (12b-1 fees) bear:

- The A share class has a 4% sales load and a 0.25% 12b-1 fee.
- The C share class has no sales load but a 1% 12b-1 fee that will last as long as Emily holds the fund.

John recognizes that he and his firm have Material Conflicts of Interest because the more fees Emily pays (including the sales load and any 12b-1 fees), the greater his and his firm's compensation will be.

Because Emily intends to hold the funds for at least 15 years, the A shares likely would be the lower cost alternative. John determines that the A share class would be the better option. John recommends the A share class to Emily. There are no other professional services that John provides to Emily.

QUESTION:

When John recommended the A share class, did John fulfill his Fiduciary Duty with regard to the consideration of costs?

RESPONSE OPTIONS:

A. Yes.

B. No.

Best Response: Response A is the best response. This case involves the Fiduciary Duty (Standard A.1.) and the definition of Financial Advice (Glossary).

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and therefore, act in the best interests of the Client. Financial Advice includes communications that, based on their content, context, and presentation, would reasonably be viewed as a recommendation to take or refrain from taking a particular course of action with respect to the advisability of investing in, purchasing, holding, gifting, or selling Financial Assets.

The Fiduciary Duty includes a Duty of Loyalty, a Duty of Care, and a Duty to Follow Client Instructions. The Duty of Care requires a CFP® professional to act with the care, skill, prudence, and diligence that a prudent professional would exercise in light of the Client's goals, risk tolerance, objectives, and financial and personal circumstances. The Duty of Loyalty requires a CFP® professional to (a) place the interests of the Client above the interests of the CFP® professional and the CFP® Professional's Firm; (b) avoid Conflicts of Interest, or fully disclose Material Conflicts of Interest to the Client, obtain the Client's informed consent, and properly manage the conflict; and (c) act without regard to the financial or other interests of the CFP® professional, the CFP® Professional's Firm, or any individual or entity other than the Client, which means that a CFP® professional acting under a Conflict of Interest continues to have a duty to act in the best interests of the Client and place the Client's interests above the CFP® professional's. The Duty to Follow Client Instructions requires a CFP® professional to comply with all objectives, policies, restrictions, and other terms of the Engagement and all reasonable and lawful directions of the Client.

John has an Engagement with Emily. John recommended that Emily invest in particular mutual funds. Therefore, John has provided Financial Advice to a Client and is subject to the Fiduciary Duty with respect to that advice.

John is required to fulfill the Duty of Care. John is making an investment recommendation that will affect Emily's prospective returns and her ability to meet her goals. John should evaluate the effect the different mutual fund share class fee structures would have on Emily's prospective returns. Emily is a longer-term investor. John determines, based on economic analysis, that the aggregate costs of the C class shares will be greater than the A class shares over time. Thus, absent extenuating circumstances, John fulfilled the Duty of Care when he recommended the A class shares to Emily.

John also is required to fulfill the Duty of Loyalty. John and his firm have Material Conflicts of Interest because the amount of compensation that John and his firm will receive depends on which share class Emily selects. To fulfill the Duty of Loyalty, John must disclose to Emily the compensation structure associated with the A class shares and C class shares, the incentives each compensation structure creates for John and his firm, and the costs that Emily will bear. John also must obtain Emily's informed consent to the Material Conflicts of Interest. To manage the Material Conflicts of Interest, John must make the recommendation he determined was in Emily's best interests (to invest in the A class shares) without regard to the compensation he and his firm would receive.

Relevant Standards and Definitions: Fiduciary Duty (Standard A.1.); Definition of Financial Advice (Glossary).

A. DUTIES OWED TO CLIENTS, 1. FIDUCIARY DUTY:

12: APPLYING THE FIDUCIARY DUTY TO A RECOMMENDATION TO PURCHASE PROPRIETARY LIFE INSURANCE

Frank, a CFP® professional, has a Client, Margaret, who is a single parent of two young children. Margaret is in her early 30s and works full time at a large technology firm. Margaret became Frank's Client after they met while serving together on the Board of Trustees at the school their children attend. Margaret tells Frank that she has started saving for her children's education but needs life insurance to provide for their care and education through college if she passes away before then. She asks Frank for his advice.

Frank is an insurance agent for Old Jersey Life who is appointed only to sell life insurance and annuity products. Frank is compensated by commissions and employment benefits. His agent agreement with Old Jersey requires him to offer only Old Jersey products. Frank fully discloses his Conflicts of Interest to Margaret and obtains her informed consent to the conflicts, including the limitations on the products and services he is able to offer.

Old Jersey is a financially sound, highly rated insurer that offers a variety of life insurance products, including term and permanent life insurance. Permanent life insurance accumulates cash value over time that the policy owner may use to fund a lifetime death benefit. Term insurance provides a death benefit only for a defined period. Premiums for permanent life insurance are usually higher than premiums for term insurance. Old Jersey is known for conducting periodic due diligence to ensure that its products offer highly competitive features and prices.

Frank conducts a careful analysis of Margaret's goals, risk tolerance, objectives, and financial and personal circumstances, and determines that a life insurance product would be in Margaret's best interest. He also analyzes Old Jersey's life insurance products. Based on that analysis, Frank concludes that term insurance is the best product for Margaret. Frank recommends that Margaret purchase an Old Jersey term insurance policy that is reasonably priced compared to other similar policies.

QUESTION:

Did Frank satisfy his Fiduciary Duty of Care to Margaret? (You may assume that Frank satisfied the Duty of Loyalty, including the Duty to Disclose and Manage Conflicts of Interest.)

RESPONSE OPTIONS:

A. **Yes. The Fiduciary Duty does not apply to insurance product recommendations.**

B. **No. Frank could not satisfy his Fiduciary Duty because he was obligated to recommend only Old Jersey products and thus could not recommend the best available product.**

C. **No. Frank did not satisfy his Fiduciary Duty because he recommended a term insurance product.**

D. **Yes. Frank satisfied his Fiduciary Duty because he analyzed Margaret's goals, risk tolerance, objectives, and financial and personal circumstances and the available Old Jersey life insurance policies, and recommended an Old Jersey term insurance policy that best met Margaret's circumstances.**

Best Response: Response D is the best response. This case involves the Fiduciary Duty (Standard A.1.) and the definition of Financial Advice (Glossary).

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and therefore, act in the best interests of the Client. Financial Advice includes communications that, based on their content, context, and presentation, would reasonably be viewed as a recommendation to take or refrain from taking a particular course of action with respect to the advisability of investing in, purchasing, holding, gifting, or selling Financial Assets. "Financial Assets" include securities, insurance products, real estate, bank instruments, commodities contracts, derivative contracts, collectibles, or other financial products.

The Fiduciary Duty includes a Duty of Loyalty, a Duty of Care, and a Duty to Follow Client Instructions. The Duty of Care requires a CFP® professional to act with the care, skill, prudence, and diligence that a prudent professional would exercise in light of the Client's goals, risk tolerance, objectives, and financial and personal circumstances.

Here Frank has an Engagement with Margaret, and has recommended that Margaret purchase life insurance. Therefore, Frank has provided Financial Advice to a Client and thus must satisfy the Fiduciary Duty.

Margaret told Frank that she wanted life insurance that would provide financial security for the care and education of her children through college, and not for longer term purposes. Frank determined, based on Margaret's goals, risk tolerance, objectives, and financial and personal circumstances, that term life insurance was in Margaret's best interests. Under different circumstances, Frank might reasonably determine that another type of insurance would be in Margaret's best interests.

Frank then considered whether any of the available Old Jersey term insurance offerings would be in Margaret's best interests. Frank determined that he could reasonably recommend an Old Jersey term insurance policy because Old Jersey is a financially sound insurer and the cost of the term policy was reasonable compared to other similar policies.

If Frank determined that none of the available Old Jersey would be in Margaret's best interest, Frank would not be able to recommend an Old Jersey insurance product to Margaret. Under such circumstances, he would fulfill his obligation to act as a fiduciary by informing Margaret that she should purchase insurance elsewhere.

Here, however, Frank satisfied his Duty of Care by acting with care, skill, prudence, and diligence when he followed a process that was designed to assess Margaret's goals, risk tolerance, objectives, and financial and personal circumstances, to evaluate the insurance company and the available types of policies, and to select a policy that he reasonably believed was in Margaret's best interests.

Response A is not the best response because insurance products are Financial Assets, and Frank's recommendation that Margaret purchase an insurance product is Financial Advice that is subject to the Fiduciary Duty.

Response B is not the best response because Frank's ability to offer only Old Jersey policies is not, by itself, a breach of the Fiduciary Duty. This limitation on the products and services that Frank may offer does not prevent Frank from acting in Margaret's best interests by recommending, from among the reasonably available options, the policy that is the best match for Margaret, so long as the policy has reasonable features, is reasonably priced, and is offered by a financially sound insurer. In contrast, Frank would not satisfy the Fiduciary Duty if he were to recommend the least bad option from a menu of options that are not a good match for Margaret.

Response C is not the best response because the facts and circumstances will determine whether a term insurance policy recommendation satisfies the Duty of Care. One Client's circumstances will vary from that of other Clients. Therefore, a recommendation that is in the best interest of one Client may not be in the best interest of another Client.

Relevant Standards and Definitions: Fiduciary Duty (Standard A.1.) and the definition of Financial Advice (Glossary).

A. DUTIES OWED TO CLIENTS, 1. FIDUCIARY DUTY:

13: THE FIDUCIARY DUTY APPLIES TO FINANCIAL ADVICE WITH RESPECT TO THE HOLDING OF BANK DEPOSITS

Bill receives $250,000 in life insurance cash proceeds following the death of his father. Bill is a Client of Mary, a CFP® professional. Bill tells Mary that he does not intend to invest the cash for at least six months. Bill asks Mary how he should hold the cash in the meantime.

Mary recommends that Bill deposit the $250,000 in a depository account at Bank X, a well-known bank whose deposits are insured by the Federal Deposit Insurance Corporation ("FDIC"). Mary advises Bill that his cash will be safe in the account and that he will earn interest at a 0.15% annual rate. Mary does not consider (or discuss with Bill) other available options, such as a certificate of deposit ("CD") or a government Money Market Fund ("MMF") that would pay a higher return with minimal risk.

Bill conducts some research and asks Mary whether a MMF might be a better option. Government MMFs often have a significantly higher interest rate than depository accounts, are highly liquid, and are considered to have very low risk.

Mary confirms that that a government MMF is another option and identifies a government MMF in which Bill may hold the $250,000. Bill then directs Mary to hold the funds in the government MMF.

QUESTION:

Which is the best response?

RESPONSE OPTIONS:

A. **Mary was not required to consider alternatives to bank deposits because bank deposits do not fall within the scope of the *Code and Standards*.**

B. **Mary satisfied her Fiduciary Duty of Care because she recommended a safe product that was suitable.**

C. **Mary did not satisfy her Fiduciary Duty of Care because she did not consider all reasonably available options before making her recommendation.**

Best Response: C is the best response. This case involves the Fiduciary Duty (Standard A.1.) and the definitions of Financial Advice and Financial Assets (Glossary).

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and therefore, act in the best interests of the Client. The Fiduciary Duty includes a Duty of Loyalty, a Duty of Care, and a Duty to Follow Client Instructions. A Client is any person to whom a CFP® professional provides or agrees to provide Professional Services pursuant to an Engagement. Financial Advice includes communications that, based on their content, context, and presentation, would reasonably be viewed as a recommendation to take or refrain from taking a particular course of action with respect to the advisability of investing in, purchasing, holding, gifting, or selling Financial Assets. "Financial Assets" include securities, insurance products, real estate, bank instruments, commodities contracts, derivative contracts, collectibles, or other financial products." Bank deposits are "Financial Assets."

This case involves the Duty of Care, which requires a CFP® professional to act with the care, skill, prudence, and diligence that a prudent professional would exercise in light of the Client's goals, risk tolerance, objectives, and financial and personal circumstances.

In this case, Mary did not satisfy the Duty of Care. Mary failed to consider, as an alternative to the deposit account, other products (including MMFs) that were reasonably available for her to recommend. Mary should have compared the features, risks and benefits of the deposit account to other available alternatives, and made a recommendation based upon the results of that comparison and Bill's goals, risk tolerance, objectives, and financial and personal circumstances. Among the factors that Mary should have considered are liquidity, transparency, rate of return, withdrawal limits, insurance coverage, record of safety, regulation, and the features of the different types of deposits (such as checking accounts, savings accounts, and certificates of deposit) and MMFs (such as government MMFs, prime MMFs, and municipal MMFs) that are reasonably available. Mary also should have considered Bill's six-month time horizon and compared the features of a six-month CD to an MMF.

A is not the best response because bank deposits are "Financial Assets" and a recommendation concerning the value of or the advisability of holding a Financial Asset is Financial Advice that is subject to CFP Board's Fiduciary Duty.

B is not the best response because Mary did not satisfy her Fiduciary Duty of Care when she made a suitable recommendation to deposit the cash in a deposit account. The Duty of Care requires a CFP® professional to act with the care, skill, prudence, and diligence that a prudent professional would exercise. Here a prudent professional would have determined which of the reasonably available options is the best option for the Client. (There may more than one option that is the best option.) Mary did not do so.

Relevant Standards and Definitions: Fiduciary Duty (Standard A.1.); definitions of Financial Advice and Financial Assets (Glossary).

A. DUTIES OWED TO CLIENTS, 1. FIDUCIARY DUTY:

14: THE FIDUCIARY DUTY TO TAKE REASONABLE STEPS WHEN PROVIDING PROFESSIONAL SERVICES AS PART OF A TEAM WITHIN A FIRM

Larry, a CFP® professional, works at a small registered investment adviser where he provides Professional Services to Clients as part of a team. Larry's role on the team is to develop Financial Planning recommendations utilizing information that other members of the team have collected from Clients. Larry has no responsibility for implementing the Financial Planning recommendations, monitoring progress, or updating.

Richard, a non-CFP® professional, has collected information from a couple, Salma and Rina, who are Clients of Larry and Richard. Salma is a freelance writer whose income varies each month, with the result that her ability to save is sporadic.

After understanding Salma and Rina's financial and personal circumstances, identifying and selecting goals, and analyzing Salma and Rina's current course of action and potential alternatives, Larry recommends that the Clients take three actions, in the following order of priority: (1) establish an emergency fund, (2) reallocate their existing Roth IRAs to long-term growth investment vehicles, and (3) increase funding to their existing Roth IRAs. Salma and Rina were informed that Larry is responsible for developing the recommendations and Richard is responsible for working with the Clients on implementation, monitoring progress, and updating. At a meeting with Larry and Richard, Salma and Rina agree with Larry's recommendations and agree to work with Richard on implementing the recommendations.

One month later, Larry sees Richard at the firm's annual meeting and Richard tells Larry that Salma and Rina have increased funding to their Roth IRAs and rebalanced their Roth IRA investments. However, Salma and Rina have not implemented the recommendation to establish an emergency fund. Richard tells Larry that he did not recommend any actions, products, or services that are designed to implement the recommendation to establish an emergency fund. Instead, Richard tells Larry he recommended that the Clients purchase a variable life insurance policy, and that they currently are in underwriting for the policy. Larry's analysis had indicated that both Salma and Rina were adequately insured. Larry is concerned that Richard did not act in the Client's best interests in recommending life insurance rather than moving forward with Larry's recommendation that the Clients establish an emergency fund. Larry's firm does not have policies and procedures for handling this situation.

QUESTION 1:

What, if anything, should Larry do when he learns that Richard did not help the Clients implement the emergency fund and instead recommended the Clients purchase a variable life insurance policy?

RESPONSE OPTIONS:

A. **Larry is not required to take any action because his responsibilities ended when he delivered the Financial Planning recommendations.**

B. **Larry should escalate this matter to a supervisor.**

C. **Larry should contact the Clients and tell them that they should implement the recommendation to establish an emergency fund.**

D. **Larry should ask Richard why he did not recommend to the Clients any actions, products, or services that are designed to implement the recommendation to establish an emergency fund, and whether Richard plans to do so.**

Best Response: Response D is the best response. This case study involves the Fiduciary Duty (Standard A.1.) and Steps 6 and 7 of the Financial Planning Process: Implementing the Financial Planning Recommendation(s) (Standard C.5.) and Monitoring Progress and Updating (Standard C.6.).

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and therefore, act in the best interests of the Client. The Fiduciary Duty includes the Duty of Loyalty, the Duty of Care, and the Duty to Follow Client Instructions. When providing Financial Planning, a CFP® professional is required to follow the Practice Standards for the Financial Planning Process. The sixth step in the process is Implementing the Financial Planning Recommendations. The seventh step in the process is Monitoring Progress and Updating.

The *Code and Standards* does not include a duty to monitor or supervise another person within a firm who is providing Professional Services to a Client as part of a team. However, when a CFP® professional is working as part of a team within a firm to provide Professional Services to a Client and the CFP® professional has actual knowledge that another member of the team may have failed to provide the Professional Services that were assigned to that team member, the Fiduciary Duty requires the CFP® professional to take reasonable steps to help ensure that the Professional Services provided to the Client are in the Client's best interests.

When a CFP® professional does not have responsibility for supervising the other team member, the CFP® professional should determine whether the CFP® Professional's Firm has policies and procedures, such as an escalation path or a hotline that may be used to communicate with appropriate personnel about concerns related to the delivery of Professional Services, and then follow those policies and procedures. In the absence of such policies and procedures, a CFP® professional should inform the other team member that the CFP® professional believes that the Professional Services were not performed in the Client's best interests, explain the basis for the CFP® professional's belief, and request that the other team member either demonstrate that the Professional Services were provided in the Client's best interests or take action to ensure that the Professional Services are provided in the best interests of the Client.

In this instance, Larry has actual knowledge of the Clients' agreement to implement Larry's recommendations and that Richard did not recommend to the Clients any actions, products, or services that are designed to implement the recommendation to establish an emergency fund. Since Larry's firm does not have policies and procedures for handling this situation, Larry should address his concern with Richard. Larry should ask Richard to explain his reasons for not recommending to the Clients any actions, products, or services that are designed to implement the recommendation to establish the emergency fund. Richard may have good reasons. For example, the Clients' circumstances may have changed, such that another recommendation should take priority over establishing an emergency fund. Alternatively, Richard might have simply forgotten to implement the recommendation to establish the emergency fund and may welcome the opportunity to rectify that oversight.

Response A is not the best response because when a CFP® professional knows that another team member is providing or has provided Professional Services to the Client that may not be in the Client's best interests, the Fiduciary Duty requires a CFP® professional to take action to ensure that the Professional Services are in the Client's best interests.

Responses B and C are not the best responses. While Larry is concerned that Richard has not recommended that the Clients implement the recommendation to establish an emergency fund, Larry does not have sufficient facts to know that Richard has failed to act in the Clients' best interests. Larry should not involve a supervisor or the Clients until he has had an opportunity to discuss his concern with Richard.

QUESTION 2:

What, if anything, should Larry do if Richard is not able to demonstrate either that he already acted in the Clients' best interests or that he will help the Clients implement the emergency fund and terminate the underwriting for a variable life insurance policy?

RESPONSE OPTIONS:

A. **Larry is not required to take any action because his responsibilities ended when he delivered the Financial Planning recommendations.**

B. **Larry should escalate the matter to a supervisor.**

C. **Larry should contact the Clients and tell them that they should implement the recommendation to establish an emergency fund.**

Best Response: Response B is the best response.

In this instance, Larry has actual knowledge that Richard recommended and selected for implementation a product that was contrary to Larry's recommendation, and the Client's agreement with Larry's recommendation, to establish an emergency fund. Since Larry's firm does not have policies and procedures for handling this situation, Larry should address his concern with Richard. Larry should ask Richard to explain his reasons for not assisting the Clients with establishing the emergency fund and instead recommending a variable life insurance policy. Richard may have good reasons. For example, the Clients' circumstances may have changed, such that establishing an emergency fund is no longer in the Clients' best interests.

However, if Richard is not able to demonstrate either that he already has acted in the Clients' best interests or that he will do so now, then Larry should request that Richard discuss the recommendation with the Clients. If Richard refuses to discuss the recommendation with the Clients, then after advising Richard of his intent to do so, Larry should inform his supervisor about his concerns, or escalate the matter to another appropriate person or channel within the firm. Larry can work with the firm and the Clients to make sure the actions taken are in the Clients' best interest.

A and C are not the best responses for the reasons provided above in response to question 1.

Relevant Standards and Definitions: Fiduciary Duty (Standard A.1.); Steps 6 and 7 of the Financial Planning Process: Implementing the Financial Planning Recommendation(s) (Standard C.5.) and Monitoring Progress and Updating (Standard C.6.).

15. APPLYING THE FIDUCIARY DUTY TO CLIENTS SEEKING LIFE INSURANCE

Viktor is a CFP® professional and an insurance agent for Old Jersey Life, an insurance firm. Viktor receives a call from prospective clients, Anya and Kristof, who received his name from a neighbor. The neighbor and his husband had worked with Viktor to purchase a whole life insurance policy.

Anya just gave birth to the couple's first child, Ivan. Kristof paused his career to focus on their newborn. Anya's salary is currently the family's only source of income.

Anya and Kristof have completed an estate plan with a local attorney that includes provisions for a trust for Ivan and any future children if they both were to die prematurely. However, Anya and Kristof are concerned that Anya's employer-provided life insurance is insufficient to provide for the family's needs if Anya passes away. They liked the idea of saving for the future by accumulating cash in a whole life insurance policy.

Anya, Kristof and Viktor enter an engagement for Financial Advice concerning life insurance. Viktor learns the following information:

- **Ages**:
  - Anya & Kristof: 31 years old
  - Ivan: 4 months

Assets		Liabilities	
Condo	$270,000	Condo home mortgage	$200,000
Company 401(k) plan account	$30,000		
Checking and Savings accoun	$35,000		

Incomes		Annual expenses	
Anya	$100,000	Fixed expenses (per year inc. taxes}	$75,000
Kristof is the primary caregiver but intends to return to work when Ivan and any other children start school.		Discretionary expenses	$15,000

- **Annual Savings:**
  - 401(k) plan account contribution: $2000 (2% of salary; company will match up to 5%).
  - Savings Account: $8,000.
- **Existing Insurance:**
  - Employer-provided policy on Anya's life at 1x base salary = $100,000
  - No additional life insurance coverage on Kristof's life
  - Employer-provided health insurance policy for the family and short- and long-term disability insurance policies for Anya

Viktor discusses Anya and Kristof's priorities with them. Their first priority is to have sufficient life insurance to address the risk of Anya's or Kristof's premature death. Anya and Kristof also would like to increase their savings for retirement.

Viktor evaluates what additional funds a surviving spouse would need if the other spouse were to unexpectedly pass away, taking into account applicable Social Security survivorship benefits, additional child care costs and the period of need. Based on this evaluation, Viktor determines the insurance needs of each spouse.

Viktor examines Anya's employer-provided policy to assess the range of additional life insurance amounts, policy types and premiums. He also examines alternative life insurance policies, including term life insurance and whole life insurance. Anya and Kristof's approximate insurance needs and the annual premiums for term and whole life insurance are shown below.

	Insurance Need	Term Insurance premium (annual)	Whole life insurance* premium (annual)
Kristof	$500,000	$700	$11,000
Anya (in addition to the employer-provided policy)	$1,500,000	$1,000	$18,000

*Whole life insurance is a type of "cash value" life insurance that generally does not expire and that accumulates value over time. Term insurance provides a death benefit only for a defined period; however, premiums for whole life insurance are substantially higher than premiums for the same amount of term insurance.

Viktor has developed factors relevant to when a client might benefit from whole and term insurance and a business process that he uses to evaluate those factors. He applies those factors here and determines that both Anya and Kristof would benefit from additional life insurance to guard against the risk of premature death. He determined, however, that term insurance, rather than whole life insurance, was the better option for Anya and Kristof in light of their financial capacity and needs, as explained further below.

Viktor provides this information to Anya and Kristof. Viktor explains how he will be paid on the policies and the conflicts of interest that the payments present. Specifically, he explains that:

- He has an interest in recommending that both Anya and Kristof purchase insurance because he will earn a commission for each policy. He will not earn a commission if they do not purchase an insurance policy from him.
- He receives employee benefits if he sells products from his firm, Old Jersey, and this creates an incentive for him to recommend an Old Jersey product even if other products in the marketplace are less expensive.
- Because the size of the commission is based on the expense of the premium, he would earn more on the whole life insurance than the term life insurance.

Viktor explains to Anya and Kristof that he believes purchasing term insurance is in their best interests, even though they were interested in whole life insurance. In particular, Viktor explains that:

- Term insurance would cover the financial hazard of premature death, which is their top priority.
- The premium commitment for whole life insurance is substantially higher than for term insurance and higher than their current savings rate.
- Even if Anya and Kristof could have afforded the whole life premiums, there were alternatives that were better suited to saving for retirement than the cash value accumulation of whole life insurance. In particular, Viktor pointed out that Anya was not taking full advantage of her company's 401(k) match.
- While the term insurance will expire in 20 years, the policy he recommends has a favorable conversion feature if they determine they need a lifelong form of insurance in the future.

Viktor further explains that he has evaluated the marketplace for term policies, as well as Anya's option for increasing her insurance through her employer and found that his company's term insurance premiums were the most competitive, Based upon this presentation, Anya and Kristof purchase the term life insurance that Viktor recommends.

QUESTION:

Did Viktor satisfy his Fiduciary Duty in providing Financial Advice to Anya and Kristof?

RESPONSE OPTIONS:

A. **Yes, because Viktor evaluated their goals, risk tolerance, objectives, and financial and personal circumstances and clearly disclosed and managed his conflicts of interest.**

B. **No, because Viktor should have acted on his clients' preference to purchase whole life insurance.**

C. **Viktor did not have a Fiduciary Duty because he was not providing Financial Advice— he recommended an insurance policy with no investment component.**

Response A is the best response. This case involves the Fiduciary Duty (Standard A.1.) and the definitions of Financial Advice and Financial Assets (Glossary).

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary and, therefore, act in the best interests of the Client. Financial Advice includes communications that, based on their content, context and presentation, would reasonably be viewed as a recommendation to take or refrain from taking a particular course of action with respect to the advisability of investing in, purchasing, holding, gifting or selling Financial Assets. "Financial Assets" include securities, insurance products, real estate, bank instruments, commodities contracts, derivative contracts, collectibles or other financial products.

The Fiduciary Duty includes a Duty of Loyalty, a Duty of Care and a Duty to Follow Client Instructions. The Duty of Loyalty requires a CFP® professional to (a) place the interests of the Client above the interests of the CFP® professional and the CFP® Professional's Firm; (b) avoid Conflicts of Interest, or fully disclose Material Conflicts of Interest to the Client, obtain the Client's informed consent, and properly manage the conflict; and (c) act without regard to the financial or other interests of the CFP® professional, the CFP® Professional's Firm, or any individual or entity other than the Client, which means that a CFP® professional acting under a Conflict of Interest continues to have a duty to act in the best interests of the Client and place the Client's interests above the CFP® professional's. The Duty of Care requires a CFP® professional to act with the care, skill, prudence and diligence that a prudent professional would exercise in light of the Client's goals, risk tolerance, objectives, and financial and personal circumstances. The Duty to Follow Client Instructions requires a CFP® professional to comply with all objectives, policies, restrictions, and other terms of the Engagement and all reasonable and lawful directions of the Client.

Viktor fulfilled the Duty of Loyalty:

Viktor has Material Conflicts of Interest. First, Viktor has a conflict of interest because he receives commission compensation for selling the insurance policy that he would not receive if he did not sell the insurance policy. This conflict exists even though he will earn a smaller commission on the sale of term insurance than he would receive on the sale of whole life insurance. Additionally, Viktor has a financial incentive to recommend the Old Jersey product through the benefits he receives from Old Jersey. This conflict exists even if he determines that the Old Jersey product is better for his Clients than other products. Viktor cannot avoid these conflicts, so he must fully disclose the conflicts, obtain the Client's informed consent and properly manage the conflicts.

Full Disclosure and Informed Consent. Viktor fully disclosed these conflicts with sufficiently specific facts to infer informed consent. Specifically, he explained how the compensation he receives and how his relationship with Old Jersey creates incentives to recommend that Anya and Kristof purchase this insurance product from Old Jersey.

Conflict Management. Viktor followed business practices reasonably designed to prevent the Material Conflicts of Interest from compromising his ability to act in Anya and Kristof's best interests. Specifically, Viktor adopted and followed a prudent process, consistent with the Duty of Care, for evaluating alternative insurance recommendations. That process is discussed further below.

Viktor fulfilled the Duty of Care

Viktor assessed Anya and Kristof's goals, risk tolerance, objectives, and financial and personal circumstances, including their objective to address risk, their financial capacity and their alternative opportunities for savings, such as Anya's 401(k) plan employer match.

When determining which policies to recommend, Viktor followed a prudent process. He used as part of his regular business a set of factors to help determine whether to recommend any life insurance and, specifically, whether to recommend whole life versus term insurance. While Kristof and Anya stated an initial preference for whole life insurance, Viktor explained to them why that course would not be in their best interests at this time.

Finally, Viktor conducted due diligence by comparing the Old Jersey term insurance to alternatives — specifically, other term insurance products in the marketplace and increasing Anya's employer-provided insurance. He determined that the Old Jersey term insurance product was the most competitive.

Response B is not the best response. In this case, Anya and Kristof merely indicated an interest in whole life insurance, which was not an instruction. Viktor reviewed with his Clients his conclusion that whole life insurance was not in their best interests, and Anya and Kristof followed his recommendation. Had Anya and Kristof directed Viktor to sell them whole life insurance, even though Viktor concluded that whole life insurance was not in their best interests, then Viktor would need to follow this reasonable and lawful direction or decline to enter into the Engagement.

Response C is not the best response because insurance products are "Financial Assets" regardless of whether the insurance product has an investment component. A recommendation concerning the value of or the advisability of holding a Financial Asset is Financial Advice that is subject to CFP Board's Fiduciary Duty.

A. DUTIES OWED TO CLIENTS, 3. DUTY OF COMPETENCE:

1: APPLYING THE DUTY OF COMPETENCE TO FINANCIAL ADVICE, INCLUDING WITH RESPECT TO A CLIENT'S EXISTING ANNUITY

SCENARIO:

Kaitlin, a 55-year-old single woman with no children, visited Dee, a CFP® professional, to engage Dee for Financial Planning. Kaitlin reports the following:

- Her current annual salary is $120,000.
- She enjoys working and intends to continue working until at least age 70.
- She has an emergency fund of approximately 6 months of monthly fixed expenses.
- Her work provides adequate short-term and long-term disability insurance and health insurance.
- She has approximately $900,000 in her retirement accounts (both 401(k) plan accounts and IRAs). Between her own contributions and her company's match, Kaitlin contributes approximately $15,000 per year to her 401(k) plan account. Her assets are in a target-date mutual fund aligned with a retirement at age 70.

In addition to her retirement account statements, Kaitlin provides her latest account statement from a fixed indexed annuity tracking a broad equity market index. She explains she purchased the policy seven years ago using the proceeds from an inheritance. The performance of the fixed indexed annuity motivated Kaitlin to seek Financial Planning.

- Based on the account statement, the annuity has an account value of approximately $100,000 and a cost basis of $80,000. Because the seven-year surrender charge period recently expired, the policy's account value and surrender value are the same.
- Kaitlin explains that she bought the annuity because the idea of guaranteed lifetime income appealed to her, but she did not pay much attention to how the annuity works. A neighbor who was an insurance agent recommended the product.
- She is confused because the annuity's growth was much lower than her investments in the stock market, even though the annuity supposedly tracks a market index.
- While Dee has a basic understanding of annuities, she is not insurance-licensed.

When Dee asks Kaitlin about her financial priorities and risk tolerance, Kaitlin says her biggest worry is outliving her savings, given that she does not have a family that could help support her. This is why she purchased the annuity. She says she understands the need to take risks in the market, but she is risk averse. Kaitlin does not know whether to keep the annuity or do something different.

QUESTION:

Which response concerning the fixed indexed annuity is the most appropriate?

RESPONSE OPTIONS:

A. **Dee recommends that Kaitlin cash out the annuity and move the funds to an account that Dee will manage in a portfolio with a mix of equities and bonds. Dee assumes that the fixed indexed annuity underperformed the equity market in recent years because of product fees, but she does not review the policy contract or conduct other research to understand the annuity's performance. Dee tells Kaitlin that since the surrender period is over, she will not have to pay a fee to liquidate the fixed indexed annuity and invest in the equity and bond markets. Dee tells Kaitlin that Dee's management of the assets in the equity and bond markets will achieve a return that will provide Kaitlin with higher income in retirement than the annuity would provide.**

B. **Dee discloses to Kaitlin that she is not insurance-licensed and cannot provide Financial Advice concerning the annuity itself or include the annuity's cash value when calculating her AUM fee. Dee tells Kaitlin she will make a note in her firm's client relationship software database that Kaitlin has the annuity. Kaitlin did not amend the Scope of Engagement or consider the assets in the fixed indexed annuity when developing the financial planning recommendations.**

C. **Dee asks Kaitlin for the contact information of the person who originally recommended the annuity, but Kaitlin does not have that information. Therefore, Dee, after seeking permission from Kaitlin and coordinating with her firm, discusses the annuity with Fatima, a competent insurance-licensed resource, to learn more about the fixed indexed annuity. Fatima has helped the firm provide Financial Advice to other Clients who had fixed indexed annuities In each circumstance, the firm determined that Fatima provided services in those clients' best interests, and the firm knows, from periodically reviewing online regulatory databases that disclose professional misconduct, that Fatima has no record of misconduct. Dee provides Fatima with an overview of Kaitlin's financial and personal circumstances, including that not outliving her savings is important to Kaitlin.**

Best Response: Response C is the best response. This case involves the Duty of Competence (Standard A.3.), the Fiduciary Duty (Standard A.1.), including the Duty of Care (Standard A.1.b.), The Duty to Provide Information to a Client When Providing Financial Planning (Standard A.10.b), and Duties When Recommending, Engaging and Working With Additional Persons (Standard A.13.). This case study does not address how the Duty of Loyalty or the Financial Planning Practice Standards apply to the scenario.

Under the Duty of Competence, a CFP® professional must provide Professional Services with competence, which means with relevant knowledge and skill to apply that knowledge. When the CFP® professional is not sufficiently competent in a particular area to provide the Professional Services required under the Engagement, the CFP® professional must gain competence, obtain the assistance of a competent professional, limit or terminate the Engagement, and/or refer the Client to a competent professional. The CFP® professional shall describe to the Client any requested Professional Services that the CFP® professional will not be providing.

At all times, when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary and, therefore, act in the best interests of the Client. The Fiduciary Duty includes a Duty of Loyalty, a Duty of Care and a Duty to Follow Client Instructions. The Duty of Care requires a CFP® professional to act with the care, skill, prudence and diligence that a prudent professional would exercise in light of the Client's goals, risk tolerance, objectives and financial and personal circumstances.

In this case, Dee is providing Financial Planning. Therefore, Dee is providing Professional Services and must satisfy the Duty of Competence. Additionally, Dee is providing Financial Advice to a Client and must satisfy the Fiduciary Duty, including the Duty of Care. Because Dee is providing Financial Planning, Dee must provide the information to Kaitlin required under Standard A.10.b. Among other things, Dee must provide Kaitlin with written terms of the Engagement, including the Scope of Engagement and any limitations.

Response A is not the best response. Dee provided Financial Advice about the fixed indexed annuity without the necessary competence and did not gain competence, obtain the assistance of a competent professional, limit or terminate the Engagement, or refer Kaitlin to a competent professional as the Duty of Competence requires. Dee also failed to act with the care, skill, prudence and diligence that a prudent professional would exercise in providing this Financial Advice, and thus violated the Duty of Care.

Specifically, Dee made assumptions about the product's costs and features and acted on those assumptions without verification. Had Dee gained competence about the fixed indexed annuity, obtained the assistance of a competent professional, or otherwise acted with the care, skill, prudence and diligence that a prudent professional would exercise, she would have learned that her assumptions were inaccurate. Specifically, Dee's explanation to Kaitlin that the annuity "underperformed" compared to the broader equity market was inaccurate because the equity market is not the correct benchmark for assessing a fixed indexed annuity's performance. Had Dee gained competence, she would have understood that Kaitlin's fixed indexed annuity generally performed as it was designed to perform.

Dee also would have learned that even though the statement Dee reviewed showed that the fixed indexed annuity was out of the surrender period, withdrawals taken before age 59 ½ are typically subject to a 10% early withdrawal penalty tax, and thus Kaitlin would incur additional tax costs when cashing out the annuity.

Additionally, Dee did not compare the costs, risks and benefits of the current course of action (keeping the annuity) versus her proposed course of action (cashing out the annuity and investing the assets), nor did she assess Kaitlin's expressed priority to not outlive her savings. She did not consider the difference between the risk-reward profiles of the two different asset classes or explore how much income the annuity might produce.

Finally, Dee did not act prudently by claiming that her management of the assets would result in more income in retirement than the fixed annuity; market investments involve risks (including risks of losing the investment) and Dee cannot be certain of the market's future performance

Response B is not the best response. Under the Duty of Competence, a CFP® professional may limit the Engagement to the services they are competent to provide. Dee, however, did not effectively limit the scope of the Financial Planning

Engagement. The Duty to Provide Information to a Client When Providing Financial Planning (Standard A.10.b) required Dee to provide in writing any limitations to the Scope of Engagement. Accordingly, Dee needed to state explicitly in the Scope of Engagement that she was not providing Financial Advice about the Fixed Indexed Annuity. Additionally, even if the Scope of Engagement is limited to exclude Financial Advice about certain Financial Assets, a CFP® professional should consider those "held-away" assets in the analysis, as those Financial Assets may affect the Financial Planning recommendations. Even though Dee implied she would take the annuity into account when developing her recommendations by stating she would make a "note" of the annuity, Dee did not consider how assets held in the fixed indexed annuity would affect her Financial Planning recommendations. Finally, Dee properly did not consider the assets in the annuity when calculating her fee.

Response C is the best response. Even though Dee herself lacked competence about the fixed indexed annuity, Dee fulfilled her Duty of Competence by obtaining the assistance of a competent professional, Fatima. As required by the Duties When Recommending, Engaging and Working With Additional Persons, Dee had a reasonable basis for recommending Fatima given her reputation, experience and qualifications. Dee had personal experience working with Fatima, other Clients previously received services from her that were in their best interests, and the firm knows, from periodically reviewing online regulatory databases that disclose professional misconduct, that Fatima has no record of misconduct.. Additionally, consistent with the Duty of Care, Dee provided Fatima with relevant information concerning Kaitlin's financial and personal circumstances so that Fatima could consider this information.

By asking Fatima for assistance, Dee learned:

- The product performed as it should have. The annuity was not designed to track the broader equity market but instead was designed to give bond-like returns when the market was up and provide principal protection when the market was down.
- Keeping Kaitlin in a fixed indexed annuity as part of her financial plan can help meet Kaitlin's objectives, and, in particular, could address her concern about outliving her savings.
- Even though the surrender period ended, Kaitlin would face tax consequences if she cashed out the annuity before age 59 ½. Accordingly, Dee would need to consider these costs when evaluating whether to recommend that Kaitlin cash out the annuity.
- Kaitlin may exchange her annuity for a product that is a better fit through a 1035 exchange without incurring a penalty tax.

Fatima offers to review Kaitlin's profile more closely and recommend an annuity that will best fit Kaitlin's personal and financial circumstances and to meet with both Dee and Kaitlin to discuss that recommendation, as well as the alternative of keeping the existing annuity or cashing out the annuity.

Relevant Standards and Definitions: Duty of Competence (Standard A.3.); Fiduciary Duty (Standard A.1.); Duty of Care (Standard A.1.b.); Duty to Provide Information to a Client When Providing Financial Planning (Standard A.10.b) Duties When Recommending, Engaging and Working With Additional Persons (Standard A.13.).

A. DUTIES OWED TO CLIENTS, 3. DUTY OF COMPETENCE:

2: APPLYING THE DUTY OF COMPETENCE TO FINANCIAL ADVICE, INCLUDING LIFE INSURANCE PRODUCTS

SCENARIO:

Bridget (age 38) and Elena (age 40) are a married couple with one child, Martin, who is 8. They work full time, have roughly equal incomes totaling $250,000 annually, and are in good health. Martin has a disability that likely will require him to have home care during adulthood.

Elena used to work in finance, and she and Bridget self-describe as "conservative" savers and investors. Both have been working since their mid 20s and consistently have contributed to their retirement accounts. They have a cash emergency fund that covers six months of their monthly fixed expenses. They each also have employer-provided group term life insurance that would pay three times their annual salary in a lump sum after death. Both also have short- and long-term disability policies that meet their needs.

Bridget and Elena have come to Roscoe, an insurance-licensed CFP® professional, for Financial Planning. They are focused on the likelihood that Martin will outlive their ability to provide financial support. They want to ensure that Martin is provided for if either of them were to die prematurely or have an unexpected life event that materially decreases their income.

Roscoe gathers additional financial information, which shows that they are on track to retire consistent with their goals, have sufficient liquidity to cover their current needs and have unallocated cash flow.

In connection with his evaluation of Bridget and Elena's insurance needs, Roscoe requests information about Martin's present care cost and the care he might need in the future. Roscoe prepares a Capital Needs Analysis (CNA) projecting Martin's likely resource needs over the next 70-80 years, along with the assets that would be available to satisfy those financial needs.

Roscoe holds an insurance license and is competent to provide Financial Advice about some insurance products, but he determines that he does not have the relevant knowledge or skill to provide the specific Financial Advice concerning insurance options that are in the best interests of Elena and Bridget given their personal and financial circumstances. Accordingly, Roscoe reaches out to Lina, a licensed insurance professional whose primary focus is life insurance solutions for Clients, including families with special needs. Lina has helped Roscoe before when he had Clients who faced similar circumstances. In each circumstance, Lina provided services in the client's best interests. Roscoe periodically reviews online regulatory databases that disclose professional misconduct and is not aware of Lina having ever been sanctioned for misconduct.

Together, Roscoe and Lina discuss and evaluate the following options:

- Rely solely on Bridget and Elena's existing, employer-provided term life insurance. Lina and Roscoe agree that employer-provided insurance is insufficient to cover Martin's expenses based on the information provided and that the group term coverage will cease shortly after they stop working for their employers.
- Buy term life insurance. Term insurance could supplement their employer insurance but expires after the 10- to 30-year term period, at which time renewal premiums increase significantly.
- Buy whole life insurance or other cash-value life insurance. Whole life insurance provides level premium coverage that would last their entire lives, with premium payments on Martin's behalf until his life expectancy of 89. The premiums initially would be substantially higher than term life insurance. However, with regular premium payments, the policy would accumulate cash value over time, and the couple would be able to use the cash value for supplemental income if needed.
- A combination of whole life and term life insurance. Roscoe asks Lina to consider a combination of life insurance products to provide financial resources for Martin's potential financial needs while moderating the overall outlay for insurance coverage.

Elena and Bridget meet with Lina. Roscoe also attends to help answer questions. Lina explains the pros and cons of the options above. At Roscoe's suggestion, Lina explains the necessary commitment to annual premiums for whole life insurance, and Roscoe provides his assessment of their ability to fund the annual premiums based on their financial circumstances.

QUESTION:

Which response best describes Roscoe's actions with respect to the Financial Advice to purchase insurance?

RESPONSE OPTIONS:

A. Roscoe should recommend that Bridget and Elena buy term insurance because it has the lowest premium.

B. Roscoe is taking the right steps to develop a recommendation in the Clients' best interests, regardless of what product Lina recommends.

C. Roscoe is not providing Financial Advice; only Lina is.

Option B is the best response. This case involves the Duty of Competence (Standard A.3.), Duties When Recommending, Engaging, and Working With Additional Persons (Standard A.13.), the Fiduciary Duty (Standard A.1.), including the Duty of Care (Standard A.1.b.), and the definition of Financial Advice (Glossary). This case study does not address how the Duty of Loyalty applies to the scenario.

Under the Duty of Competence, a CFP® professional must provide Professional Services with competence, which means having relevant knowledge and skill to apply that knowledge. When the CFP® professional is not sufficiently competent in a particular area to provide the Professional Services required under the Engagement, the CFP® professional must gain competence, obtain the assistance of a competent professional, limit or terminate the Engagement, and/or refer the Client to a competent professional.

When engaging or recommending the selection or retention of additional persons to provide financial or Professional Services for a Client, a CFP® professional must:

i. Have a reasonable basis for the recommendation or Engagement based on the person's reputation, experience and qualifications;

ii. Disclose to the Client, at the time of the recommendation or prior to the Engagement, any arrangement by which someone who is not the Client will compensate or provide some other material economic benefit to the CFP® professional, the CFP® Professional's Firm, or a Related Party for the recommendation or Engagement; and

iii. When engaging a person to provide services for a Client, exercise reasonable care to protect the Client's interests.

At all times, when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary and, therefore, act in the best interests of the Client. The Fiduciary Duty includes a Duty of Loyalty, a Duty of Care and a Duty to Follow Client Instructions. The Duty of Care requires a CFP® professional to act with the care, skill, prudence and diligence that a prudent professional would exercise in light of the Client's goals, risk tolerance, objectives and financial and personal circumstances.

Financial Advice is:

1. A communication that, based on its content, context and presentation, would reasonably be viewed as a recommendation that the Client take or refrain from taking a particular course of action with respect to:
    a. The development or implementation of a financial plan;
    b. The value of or the advisability of investing in, purchasing, holding, gifting or selling Financial Assets;
    c. Investment policies or strategies, portfolio composition, the management of Financial Assets or other financial matters; or
    d. The selection and retention of other persons to provide financial or Professional Services to the Client; or
2. The exercise of discretionary authority over the Financial Assets of a Client.

The determination of whether Financial Advice has been provided is an objective rather than subjective inquiry. The more individually tailored the communication is to the Client, the more likely the communication will be viewed as Financial Advice. The provision of services or the furnishing or making available of marketing materials, general financial education materials or general financial communications that a reasonable CFP® professional would not view as Financial Advice, does not constitute Financial Advice.

In this case, Roscoe is providing Financial Planning. Therefore, Roscoe is providing Professional Services and must satisfy the Duty of Competence. Additionally, Roscoe is providing Financial Advice to a Client and must satisfy the Fiduciary Duty, including the Duty of Care.

Response A is not the best response. Under the Duty of Care, a CFP® professional may not cause the Client to incur excessive costs or be exposed to excessive risk relative to comparable, reasonably available alternatives. However, a CFP® professional is not always required to choose the lowest cost option. Cost is an important factor among several factors that a CFP® professional must analyze. If a CFP® professional considers and analyzes the material advantages and disadvantages of the alternatives and determines that the higher cost option is in the best interests of the Client, then the CFP® professional may recommend the higher cost option.

Response B is the best response. Here, Roscoe recognized that, even though he is insurance-licensed, he is not competent to provide the Financial Advice that Bridget and Elena's situation required. Consistent with the Duty of Competence, Roscoe obtained the assistance of Lina, a competent professional. As required by the Duties When Recommending, Engaging and Working With Additional Persons, Roscoe had a reasonable basis for recommending Lina given her reputation, experience and qualifications. Roscoe had personal experience working with Lina, other Clients previously received services from her that were in their best interests and Roscoe periodically reviews online regulatory databases that disclose professional misconduct and is not aware of sanctions against Lina for misconduct.

Roscoe also exercised reasonable care to act in Bridget and Elena's best interests. Roscoe:

- Gathered relevant information;
- Collaborated with Lina to understand his Clients' options;
- Attended the meeting between his Clients and Lina to provide support and knowledge that facilitated Lina's delivery of Professional Services;
- Asked Lina to provide supplemental information to help Bridget and Elena understand the options; and
- Provided his own Financial Advice to help his Clients make an appropriate decision.

Response C is not the best response. Roscoe is providing Financial Advice in two ways. First, he is recommending Lina, another professional. The definition of Financial Advice includes recommending the selection or retention of other persons to provide financial or Professional Services to the Client. Second, Roscoe is providing Financial Planning, which is Financial Advice that integrates relevant elements of the Client's personal and financial circumstances, including insurance coverage.

Relevant Standards and Definitions: Duty of Care (Standard A.1.b.); Duty of Competence (Standard A.3.); Duties When Recommending, Engaging, and Working With Additional Persons (Standard A.13.); definition of Financial Advice (Glossary).

A. DUTIES OWED TO CLIENTS, 5. DISCLOSE AND MANAGE CONFLICTS OF INTEREST:

1: THE DUTY TO DISCLOSE MATERIAL CONFLICTS OF INTEREST WHEN MAKING A ROLLOVER RECOMMENDATION

Bruce, a CFP® professional, is a representative of XYZ Advisors, Inc., a registered investment adviser. XYZ does not permit its investment adviser representatives to charge a fee for managing assets in a 401(k) plan. Bruce is engaged by Heather, who is retiring, to provide Financial Planning. After obtaining information about and understanding Heather's personal and financial circumstances, Bruce helps Heather develop a goal of having adequate income during her retirement. Bruce analyzes Heather's existing account in the 401(k) plan and the plan's investment options, fees and expenses, services, and other features. Bruce concludes that the management fees Heather will pay if she rolls over the assets into an individual retirement account ("IRA") will be higher than if she leaves the assets in her account in the 401(k) plan. Nevertheless, based on his review of Heather's circumstances and analysis of the relevant factors, Bruce determines that such a rollover is in Heather's best interest. Bruce presents that recommendation to Heather and tells Heather that he would receive an ongoing fee for managing the assets in the IRA. Bruce does not tell Heather that she would not have to pay Bruce a fee if she continues to invest her assets in the account in the 401(k) plan, as he would not be advising on those assets.

QUESTION:

With respect to Bruce's Duty to Disclose Conflicts of Interest, which of the following is the best response?

RESPONSE OPTIONS:

A. Bruce has no Material Conflict of Interest because Heather understands that Bruce will be paid for his services.

B. Bruce satisfied his disclosure obligation when he disclosed his fee for managing the IRA.

C. Bruce did not fully disclose to Heather the Material Conflict of Interest that his recommendation presented.

D. Since Bruce sincerely believed that his recommendation was in Heather's best interest, he was excused from making full disclosure to Heather.

Best Response: Response C is the best response. This case involves the Duty to Disclose Conflicts of Interest (Standard A.5.a.) and the definitions of Conflict of Interest and Material (Glossary).

A CFP® professional must make full disclosure of all Material Conflicts of Interest with the CFP® professional's Client that could affect the professional relationship. A CFP® professional must provide the Client with sufficiently specific facts so that a reasonable Client would be able to understand the CFP® professional's Material Conflicts of Interest and the business practices that give rise to the conflicts, and give informed consent to such conflicts or reject them. One way that a Conflict of Interest occurs is when a CFP® professional's interests (including the interests of the CFP® Professional's Firm) are adverse to the CFP® professional's duties to a Client. Information is Material when a reasonable Client or prospective Client would consider the information important in making a decision. A CFP® professional must make full disclosure and obtain the informed consent of the Client before providing any Financial Advice regarding which the CFP® professional has a Material Conflict of Interest.

In this case, Bruce has a Material Conflict of Interest that could affect his professional relationship with Heather because of how he is compensated for his services. To provide sufficiently specific facts for Heather to understand this Material Conflict of Interest, Bruce must explain to Heather that he will receive an ongoing fee for managing Heather's assets only if she accepts the recommendation and the assets are invested in an IRA; Bruce will receive no compensation if Heather keeps the assets in the account in the 401(k) plan because he will not be providing Financial Advice on those assets. A reasonable Client, like Heather, would consider that information important in making a decision whether to follow or reject Bruce's Financial Advice. Because Bruce did not fully disclose that information to Heather, he did not satisfy his Duty to Disclose Material Conflicts of Interest.

Response A is not the best response because Bruce has a Material Conflict of Interest.

Response B is not the best response because the Duty to Disclose Conflicts of Interest requires Bruce to do more than disclose that he would receive a fee for managing the assets in the IRA. Bruce also is required to explain to Heather that he will receive a fee only if she accepts his recommendation.

Response D is not the best response because a sincere belief by a CFP® professional that he or she is acting in the Client's best interests is insufficient to excuse a failure to make full disclosure of a Material Conflict of Interest.

While the Duty to Disclose Conflicts of Interest does not require disclosure of Material Conflicts of Interest in writing, evidence of oral disclosure of a conflict will be given such weight as CFP Board in its judgment deems appropriate. As a best practice, CFP Board recommends that a CFP® professional disclose the Conflict of Interest in writing before or when providing the Financial Advice.

Relevant Standards and Definitions: Disclose and Manage Conflicts of Interest (Standard A.5); definitions of Conflict of Interest and Material (Glossary).

A. DUTIES OWED TO CLIENTS, 5. DISCLOSE AND MANAGE CONFLICTS OF INTEREST:

2: THE DUTY TO DISCLOSE MATERIAL CONFLICTS OF INTEREST WHEN RESPONDING TO A CLIENT'S INVESTMENT INQUIRY

Emma, a CFP® professional, receives a call from her Client, David, who is approaching retirement age. David asks Emma whether he should invest in a real estate investment trust (REIT) to fund his retirement income. To invest in the REIT, David would need to liquidate a portion of the assets held in his investment account, which Emma manages, and purchase the REIT through another account. Emma conducts her analysis and concludes that investing in the REIT is a bad idea because, among other reasons, the account she is managing likely will achieve better returns than an investment in the REIT. Emma analyzes David's investment time horizon and concludes that the commission she would receive on the purchase of a REIT investment would be less than the management fee she would earn if the assets remained in David's investment account. The account that would hold the REIT would not pay Emma a management fee.

QUESTION:

What should Emma do?

RESPONSE OPTIONS:

A. **Explain to David that, in her professional judgment, he should not invest in the REIT.**

B. **Fully disclose to David her Material Conflict of Interest, obtain informed consent to the conflict, and provide David with her advice.**

C. **Explain to David that she must decline to provide David the advice he is seeking. Emma has a Material Conflict of Interest because she will earn more compensation if David keeps the assets in the investment account than if David invests in the REIT, and Emma cannot provide disinterested Financial Advice.**

Best Response: B is the best response. This case involves the Duty to Disclose Conflicts of Interest (Standard A.5.a.) and the definitions of Conflict of Interest and Material (Glossary).

A CFP® professional must make full disclosure of all Material Conflicts of Interest with the CFP® professional's Client that could affect the professional relationship. The Duty to Disclose Conflicts of Interest requires the CFP® professional to provide the Client with sufficiently specific facts so that a reasonable Client would be able to understand the CFP® professional's Material Conflicts of Interest and the business practices that give rise to the conflicts, and to either give informed consent to such conflicts or reject them. One way in which a Conflict of Interest occurs is when a CFP® professional's interests (including the interests of the CFP® Professional's Firm) are adverse to the CFP® professional's duties to a Client. Information is Material when a reasonable Client or prospective Client would consider the information important in making a decision. A CFP® professional must make full disclosure and obtain the consent of the Client before providing any Financial Advice regarding which the CFP® professional has a Material Conflict of Interest.

In this case, Emma has a Material Conflict of Interest because she will earn more compensation if David accepts her recommendation. The fee that Emma would receive if she continued to manage David's investment account will be greater than the commission she would receive if he purchased the REIT. Emma must make full disclosure to David of the compensation conflict before or when making the recommendation and obtain David's informed consent to the conflict.

While the Duty to Disclose Conflicts does not require written disclosure, evidence of oral disclosure of a conflict will be given such weight as CFP Board in its judgment deems appropriate. As a best practice, CFP Board recommends that a CFP® professional disclose the Conflict of Interest in writing before or when providing the Financial Advice.

Response C is not the best response because the Fiduciary Duty that Emma, as a CFP® professional, has when providing Financial Advice does not require her to decline to provide the Financial Advice because she has a conflict. Emma may provide full disclosure of the Material Conflict of Interest, obtain David's consent, and properly manage the Material Conflict of Interest by adopting and following business practices reasonably designed to prevent the Material Conflict of Interest from compromising her ability to act in David's best interests.

Response A is not the best response because it does not address Emma's Material Conflict of Interest.

Relevant Standards and Definitions: Disclose and Manage Conflicts of Interest (Standard A.5.); definitions of Conflict of Interest and Material (Glossary).

A. DUTIES OWED TO CLIENTS, 5. DISCLOSE AND MANAGE CONFLICTS OF INTEREST:

3: THE DUTY TO DISCLOSE MATERIAL CONFLICTS OF INTEREST WHEN RECOMMENDING A PRODUCT ISSUED BY AN AFFILIATE

Olivia, a CFP® professional, identifies three single premium annuities that will best meet the needs of her Client, Michael. One of the three annuities Olivia identified is issued by a life insurance company (DEF Mutual, Inc.) that is affiliated with Olivia's firm (DEF Advisers, Inc.). While Olivia will receive the same compensation if Michael purchases any of the three annuities, her firm and her firm's affiliate will receive an additional economic benefit if Michael purchases the DEF Mutual annuity.

QUESTION:

How should Olivia proceed?

RESPONSE OPTIONS:

A. **Olivia should disclose to Michael that one of the insurance companies is affiliated with her firm and that if Michael purchases an annuity from that insurance company, Olivia's firm and an affiliate of Olivia's firm will receive an additional economic benefit on that transaction.**

B. **Olivia should assume that, because the insurance company and Olivia's firm have the same name, Michael recognizes that they are affiliated and that Olivia's firm or the affiliate will receive an additional economic benefit, with the result that no further disclosure is required.**

C. **Olivia should avoid recommending annuity contracts that are issued by the affiliated company.**

Best Response: Response A is the best response. This case involves the Duty to Disclose and Manage Conflicts of Interest (Standard A.5.) and the definitions of Conflict of Interest and Material (Glossary).

A CFP® professional must make full disclosure of all Material Conflicts of Interest with the CFP® professional's Client that could affect the professional relationship. The Duty to Disclose a Conflict of Interest requires the CFP® professional to provide the Client with sufficiently specific facts so that a reasonable Client would be able to understand the CFP® professional's Material Conflicts of Interest and the business practices that give rise to the conflicts, and either give informed consent to such conflicts or reject them. One way in which a Conflict of Interest occurs is when a CFP® professional's interests (including the interests of the CFP® Professional's Firm) are adverse to the CFP® professional's duties to a Client. Information is Material when a reasonable Client or prospective Client would consider the information important in making a decision.

In this case, the affiliation between Olivia's firm and the insurance company that issued the annuity, and the fact that Olivia's firm and an affiliate of Olivia's firm will receive an additional economic benefit if Michael purchases an annuity from that insurance company, are Material Conflicts of Interest. As a result, Olivia must make full disclosure of the potential additional economic benefit that will result if Michael purchases the annuity from the affiliate and obtain Michael's informed consent to the Material Conflict of Interest before or when recommending the annuity issued by the affiliate.

Response B is not the best response because it is not reasonable to assume that Michael understands the conflict solely from the fact that the names of the firm and the affiliate are similar.

Response C is not the best response because if DEF Advisers' affiliation with DEF Mutual, and the additional economic benefit, are fully disclosed and informed consent is obtained, Olivia may manage the conflict through business practices reasonably designed to prevent the Material Conflict of Interest from compromising her ability to act in the Client's best interests. Here, for example, Olivia has analyzed the annuities that are available to Michael, and she may recommend the annuity issued by DEF Mutual if she concludes that the annuity is in Michael's best interests.

Relevant Standards and Definitions: Disclose and Manage Conflicts of Interest (Standard A.5.); definitions of Conflict of Interest and Material (Glossary).

A. DUTIES OWED TO CLIENTS, 5. DISCLOSE AND MANAGE CONFLICTS OF INTEREST:

4: THE DUTY TO DISCLOSE AND MANAGE MATERIAL CONFLICTS OF INTEREST INVOLVING PROPRIETARY PRODUCTS

Frank, a CFP® professional, has a Client, Margaret, a single parent of two young children who is in her early 30s and works full time. Margaret became Frank's Client after they met while serving together on the Board of Trustees at the school their children attend. Margaret tells Frank that she needs life insurance to protect her children and that she wants advice on how to save for retirement and her children's college education. Frank agrees to provide Financial Advice on these issues.

Frank is an insurance agent for Old Jersey Life who only is licensed to sell life insurance and fixed annuity products. Under his agent agreement with Old Jersey, Frank is required only to offer Old Jersey products. Old Jersey offers a variety of life insurance products, including term and permanent life insurance. Permanent life insurance accumulates cash value over time that the policy owner may use to fund a lifetime death benefit or for other purposes, such as supplemental retirement income. Term insurance provides a death benefit only for a defined period. Premiums usually are higher for permanent life insurance than for term insurance.

Frank receives commissions and certain employment benefits from Old Jersey. Frank earns commissions from selling insurance products that are based on a percentage of the premium that the Client pays. Frank receives a commission that is a higher percentage of the premium that the Client pays for some Old Jersey products than other Old Jersey products. Frank conducts a careful analysis of the Client's needs and the available Old Jersey products and recommends a product that is in Margaret's best interests. Assume that Frank fulfilled his Duty of Care and Duty of Loyalty in making his recommendation.

QUESTION 1:

Which of the following are <u>not</u> Material *Conflicts of Interest* under the *Code and Standards*?

RESPONSE OPTIONS:

A. **Frank's contract with Old Jersey requires Frank exclusively to offer Old Jersey products to his Clients.**
B. **Frank and Margaret met while serving on the Board of Trustees of their children's school.**
C. **Frank receives compensation only for providing Financial Advice on the sale of insurance products.**
D. **The premiums of permanent life insurance are higher than the premiums for term insurance, which means that Frank receives more compensation when he sells a Client permanent life insurance than when he sells a Client term life insurance.**

Best Response: Response B. This question involves the Duty to Disclose and Manage Conflicts of Interest (Standard A.5.), and the definitions of Conflict of Interest and Material (Glossary).

When providing Financial Advice, a CFP® professional must make full disclosure of all Material Conflicts of Interest with the CFP® professional's Client that could affect the professional relationship. A Conflict of Interest occurs when a CFP® professional's interests (including the interests of the CFP® Professional's Firm) are adverse to the CFP® professional's duties to a Client. A Conflict of Interest is Material when a reasonable Client or prospective Client would consider the information important in making a decision.

As described in the fact pattern, Response B is not a Conflict of Interest. The fact that Frank met Margaret while serving on the Board of Trustees at the school does not make Frank's interests adverse to his duties to Margaret.

Response A is a Material Conflict of Interest. Frank has a financial incentive to sell Old Jersey products to Margaret. The Old Jersey products may be more expensive than other products available in the marketplace. Frank's interests are adverse to Margaret's interest in obtaining objective Financial Advice and paying less for the products that she purchases. The Conflict of Interest is Material because a reasonable Client would consider important in deciding whether to accept Frank's recommendation the fact that Frank may offer only Old Jersey products.

Response C is a Material Conflict of Interest. Frank has an interest in selling insurance products to Margaret, as opposed to other types of investment products, because he receives compensation only for selling insurance. This creates a Conflict of Interest because Frank's interest in receiving compensation is adverse to his duty to provide Margaret with objective Financial Advice about whether she needs insurance, and if so, how much. The Conflict of Interest is Material because a reasonable Client or prospective Client would consider it important to know, in deciding whether to accept Frank's recommendation about which products to purchase, how and when Frank is compensated when he provides Financial Advice regarding the products that Margaret should purchase. Margaret is particularly likely to consider the information Material because the Financial Advice concerns her retirement and her children's college education, and thus may affect her personal and financial circumstances for a long time.

Responses D and E are Material Conflicts of Interest. Frank's interest in receiving greater compensation (for selling permanent life insurance and for selling certain types of policies) is adverse to his duty to provide Margaret with objective Financial Advice. These Conflicts of Interest are Material because a reasonable Client or prospective Client would find the information important in making a decision about whether to accept Frank's recommendations.

QUESTION 2:

What must Frank do to address these Material Conflicts of Interest?

RESPONSE OPTIONS:

A. **Frank must disclose his Material Conflicts of Interest to Margaret, obtain her informed consent, and manage the conflicts in Margaret's best interests.**

B. **Frank must obtain Margaret's informed consent to any Material Conflicts of Interest in writing.**

Best Response: Response A. This question involves the Duty to Disclose and Manage Conflicts of Interest (Standard A.5.).

When providing Financial Advice to a Client, a CFP® professional must make full disclosure of all Material Conflicts of Interest with the Client that could affect the professional relationship, obtain the Client's informed consent, and manage the conflict in the Client's best interests.

In making the disclosure, the CFP® professional must provide the Client with sufficiently specific facts so that a reasonable Client would be able to understand the Material Conflicts of Interest and the business practices that give rise to the conflicts, and give informed consent to such Conflicts of Interest or reject them. Ambiguity in the disclosure provided to the Client will be interpreted in favor of the Client. The Duty to Disclose and Manage Conflicts of Interest does not require a CFP® professional to disclose Conflicts of Interest in writing, but CFP Board recommends written disclosure as a best practice. Evidence of oral disclosure of a conflict will be given such weight as CFP Board in its judgment deems appropriate.

A CFP® professional also must obtain the Client's informed consent. Written consent to a conflict is not required. In determining whether the disclosure about a Material Conflict of Interest provided to the Client was sufficient to infer that a Client has consented to a Material Conflict of Interest, a CFP® professional should consider whether a reasonable Client receiving the disclosure would have understood the Conflict of Interest and how it could affect the advice the Client will receive from the CFP® professional.

A CFP® professional also must manage Material Conflicts of Interest by adopting and following business practices reasonably designed to prevent Material Conflicts of Interest from compromising the CFP® professional's ability to act in the Client's best interests.

In this case, one way that Frank may make full disclosure of all Material Conflicts of Interest that could affect the professional relationship would be by providing Margaret with the following information:

- That his agent agreement with Old Jersey requires him exclusively to offer Old Jersey products, even if other products available in the marketplace might have a lower cost or have features that would make them a better fit for Margaret's circumstances.
- That he only is authorized to sell insurance products and that he receives compensation only on the sale of insurance products, and that this provides him with a financial incentive to recommend insurance products even if other types of products that he is not permitted to sell might be a better fit for Margaret's circumstances.
- That there is a difference between permanent and term life insurance, and explain that difference.
- That Margaret will pay higher premiums for permanent life insurance and that Frank will receive more compensation for the sale of permanent life insurance, and that this provides Frank with an incentive to sell permanent life insurance.
- That Frank expects to earn more compensation over the term of certain insurance products than others, and the types of products that will pay him more compensation.
- That this provides him with a financial incentive to recommend those insurance products over others where he will earn a lower aggregate amount of compensation.

For Frank to sell Margaret the policy, Margaret also must provide her informed consent to the Material Conflicts of Interest. Margaret's informed consent may be inferred if Frank's disclosures are sufficiently specific.

Frank also must manage the Material Conflicts of Interest by adopting and following business practices that are reasonably designed to prevent the Material Conflicts of Interest from compromising his ability to act in Margaret's best interest.

B is not the best response because a CFP® professional is not required to obtain the Client's informed consent in writing. Obtaining the Client's informed consent in writing is a best practice, but informed consent may be inferred if the disclosures are sufficiently specific.

QUESTION 3:

Which of the following is the best statement with respect to Frank's management of the Material Conflicts of Interest?

RESPONSE OPTIONS:

A. **Frank is required to eliminate Material Conflicts of Interest from his planning process.**

B. **Frank satisfies his duty when he discloses his Material Conflicts of Interest to Clients and they provide their informed consent.**

C. **In addition to disclosing Material Conflicts of Interest and obtaining the Client's informed consent, Frank must adopt and follow business practices reasonably designed to prevent Material Conflicts of Interest from compromising his ability to act in the Client's best interests.**

Best Response: Response C is the best response. This question involves the Duty to Disclose and Manage Conflicts of Interest (Standard A.5.).

A CFP® professional has a duty to adopt and follow business practices reasonably designed to prevent Material Conflicts of Interest from compromising the CFP® professional's ability to act in the Client's best interests.

Here Frank has Material Conflicts of Interest because he may sell only proprietary products, he receives compensation only for the sale of certain products, and he receives more compensation for selling some products than others. Frank must take steps to ensure that his recommendation is based on the Client's goals, risk tolerance, objectives, and financial and personal circumstances, and not his potential compensation. As a best practice, Frank should consider documenting the basis for making the recommendation.

Response A is not the best response because the *Code and Standards* does not require a CFP® professional to eliminate all Material Conflicts of Interest.

Response B is not the best response because disclosing Material Conflicts of Interest and obtaining the Client's informed consent is not all that the *Code and Standards* requires when a CFP® professional is providing Financial Advice and has a Material Conflict of Interest. A CFP® professional also must properly manage the conflict.

Relevant Standards and Definitions: Duty to Disclose and Manage Conflicts of Interest (Standard A.5.); Definitions of Conflict of Interest and Material (Glossary).

A. DUTIES OWED TO CLIENTS, 5. DISCLOSE AND MANAGE CONFLICTS OF INTEREST:

5: THE DUTY TO DISCLOSE AND MANAGE CONFLICTS OF INTEREST AND A DISCRETIONARY PURCHASE OF NO TRANSACTION FEE FUNDS

Michelle, a CFP® professional who is a principal of a mid-sized registered investment adviser, begins working with Theresa, a new Client. Theresa is 40 years old and recently left a large company to start her own business. Theresa's objective is long-term investing for retirement. Her Financial Assets include a rollover IRA, a startup Keogh plan (covering Theresa and her two employees), and mutual funds held in a non-qualified brokerage account.

Theresa would like to transfer the Financial Assets she currently holds in her non-qualified brokerage account into an advisory account. To accomplish that, Michelle opened a fully discretionary advisory account for Theresa that will pay Michelle ongoing advisory fees. Michelle's firm requires its clients to select a particular clearing broker for investment accounts. Michelle is not affiliated with the clearing broker. The clearing broker has a "no transaction fee" ("NTF") program, through which investors can purchase and sell a specific share class of certain mutual funds without paying a transaction fee. It also offers a "transaction fee" program, through which investors can pay a transaction fee to purchase and sell either (1) mutual funds that aren't offered in the NTF program, or (2) the same mutual funds that are offered in the NTF program but a different share class of those funds.

To avoid transaction costs, Michelle purchased a fund in the NTF program for Theresa's account. However, the fund in the NTF program that Michelle purchased was also offered in the transaction fee program as a different share class of the same fund with a lower expense ratio. Class G of the fund, which was available through the clearing broker's NTF program (and which Michelle used) had an expense ratio of .75%, while Class M, which was part of the transaction fee program, had an expense ratio of .53%. The funds were otherwise the same. Taking into account (1) the size of the position in the fund that Michelle purchased and (2) her expectation that the need to rebalance or otherwise liquidate the position would be minimal within the next several years, Michelle could have determined that, due to the higher expense ratio of the share class offered in the NTF program over the expected holding period, the cost to Theresa of owning the NTF share class of the fund would be expected to exceed the costs that Theresa would have incurred if she had paid a transaction fee to purchase the share class of the fund that was available in the transaction fee program.

The clearing broker makes revenue sharing payments to Michelle's firm for the sale of the funds (limited to the specified share class) in the NTF program, which are compensation to Michelle's firm in addition to the advisory fee that Theresa will pay. Michelle's firm does not receive revenue sharing payments for sales of the different funds or share classes of funds in the transaction fee program. Michelle provides Theresa with a website link to her firm's Form ADV, including Part 2A or the "brochure," which disclosed only the advisory fee, that her firm offered both an NTF program and a transaction fee program through its clearing broker, and that the firm's clearing broker would share with Michelle's firm revenue it received from mutual fund sponsors who pay a fee to participate in the NTF program. Michelle makes no other disclosures to Theresa about the impact of the revenue sharing arrangement, including that the mutual funds that were part of the NTF program for which it received revenue sharing were generally more expensive for clients or that there were instances in which a mutual fund in the NTF program otherwise had a lower-cost share class available in the transaction fee program, for which Michelle's firm would receive no revenue sharing compensation.

QUESTION:

Which two of the statements about Michelle's Fiduciary Duty and her Duty to Disclose and Manage Conflicts of Interest are best?

RESPONSE OPTIONS:

A. **Michelle has satisfied her duty to act in Theresa's best interests by purchasing the NTF fund, which will be costlier for Theresa over time, because Michelle's total compensation is reasonable.**

B. **Michelle fully satisfied her duty to disclose conflicts of interest because her firm's Form ADV disclosed that the firm would receive revenue sharing.**

C. **Michelle has not satisfied her duty to act in Theresa's best interests by purchasing the NTF fund because the use of NTF funds will be costlier for Theresa.**

D. **Michelle has not satisfied her duty to disclose conflicts of interest because she did not disclose that she and her firm had economic incentives to purchase the NTF fund, which were more expensive for Theresa.**

Best Response: Both C and D are the best responses. This case involves the Fiduciary Duty (Standard A.1), the Duty to Disclose and Manage Conflicts of Interest (Standard A.5), and the definitions of Conflict of Interest, Material, and Financial Advice (Glossary).

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and therefore, act in the best interests of the Client. Financial Advice includes communications that, based on their content, context, and presentation, would reasonably be viewed as a recommendation to take or refrain from taking a particular course of action with respect to the development or implementation of a financial plan; the value of or the advisability of investing in, purchasing, holding, gifting, or selling Financial Assets; investment policies or strategies, portfolio composition, the management of Financial Assets, or other financial matters; or the selection and retention of other persons to provide financial or Professional Services to the Client. Financial Advice also includes the exercise of discretionary authority over the Financial Assets of a Client.

The Fiduciary Duty includes a Duty of Loyalty, a Duty of Care, and a Duty to Follow Client Instructions. The Duty of Care requires a CFP® professional to act with the care, skill, prudence, and diligence that a prudent professional would exercise considering the Client's goals, risk tolerance, objectives, and financial and personal circumstances. The Duty of Loyalty requires a CFP® professional to (a) place the interests of the Client above the interests of the CFP® professional and the CFP® Professional's Firm; (b) avoid Conflicts of Interest, or fully disclose Material Conflicts of Interest to the Client, obtain the Client's informed consent, and properly manage the conflict; and (c) act without regard to the financial or other interests of the CFP® professional, the CFP® Professional's Firm, or any individual or entity other than the Client, which means that a CFP® professional acting under a Conflict of Interest continues to have a duty to act in the best interests of the Client and place the Client's interests above the CFP® professional's.

A CFP® professional must make full disclosure of all Material Conflicts of Interest with the CFP® professional's Client that could affect the professional relationship. The Duty to Disclose Conflicts of Interest requires the CFP® professional to provide the Client with sufficiently specific facts so that a reasonable Client would be able to understand the CFP® professional's Material Conflicts of Interest and the business practices that give rise to the conflicts, and to either give informed consent to such conflicts or reject them. One way a Conflict of Interest occurs is when a CFP® professional's interests (including the interests of the CFP® Professional's Firm) are adverse to the CFP® professional's duties to a Client. Information is Material when a reasonable Client or prospective Client would consider the information important in making a decision. A CFP® professional must make full disclosure and obtain the consent of the Client before providing any Financial Advice regarding which the CFP® professional has a Material Conflict of Interest.

Michelle exercised discretionary authority over Theresa's Financial Assets. Therefore, Michelle has provided Financial Advice to a Client and is required to act as a fiduciary with respect to that Financial Advice.

In this case, the NTF share class purchased by Michelle was not the best reasonably available option for Theresa because it would result in higher costs to her over time than the transaction fee share class of the same fund. Michelle's firm, however, would receive more compensation from the selection of the NTF funds because of the revenue sharing payments to her firm. Michelle failed to satisfy the Duty of Care because she did not act with the care, skill, prudence, and diligence that a prudent professional would exercise when she selected the product that would be more expensive for Theresa. Further, in selecting the NTF funds, Michelle also failed to satisfy the Duty of Loyalty because she (1) placed her own interests and the interests of her firm above the interests of Theresa, and (2) did not act without regard to her own financial interests or the financial interests of her firm. For these reasons, Response C is one of the best responses.

Michelle and her firm have a Material Conflict of Interest because of the revenue sharing payments the firm will receive when Michelle makes the purchase of NTF funds. Although Michelle provided Theresa with a link to her firm's Form ADV 2A brochure, which disclosed the revenue sharing payments, the disclosure did not state that the mutual funds that were part of the NTF program (for which it received revenue sharing compensation) were generally more expensive for clients. Michelle also did not disclose that there were instances in which a mutual fund in the NTF program otherwise had a lower-cost share class available in the transaction fee program (for which Michelle's firm would receive no revenue sharing compensation). As a result, the disclosure was not sufficient for Theresa to give informed consent to the conflict or reject it. For these reasons, Response D is one of the best responses.

A is not the best response because the reasonableness of Michelle's compensation is not determinative of whether Michelle acted in Theresa's best interest in purchasing the NTF fund that is costlier to Theresa.

B is not the best response because the disclosure was not sufficient for the reasons described above.

Relevant Standards and Definitions: Fiduciary Duty (Standard A.1), Duty to Disclose and Manage Conflicts of Interest (Standard A.5) and the definitions of Financial Advice, Conflict of Interest, and Material (Glossary).

6. MANAGING CONFLICTS OF INTEREST ARISING FROM DIFFERENT PRODUCT RECOMMENDATIONS

Gabriella is a CFP® professional who is a registered representative with a broker-dealer. She provides comprehensive financial planning to her Clients Santiago and Renata, a couple in their mid-40s who recently received a $50,000 inheritance. Santiago and Renata have no immediate need for the money, and asked Gabriella to invest the funds for them as supplemental retirement income.

Gabriella is considering recommending that Santiago and Renata add to their existing modest portfolio by investing the $50,000 in a mutual fund portfolio. Gabriella has identified two possible mutual fund portfolios that would meet the couple's needs. Specifically, Gabriella determined that the benefits of both portfolios are the same and will meet Santiago and Renata's goals, risk tolerance, objectives, and financial and personal circumstances. Further, with respect to both portfolios, Gabriella's firm would earn a 5.5% initial commission (or load) on the sale of the mutual funds, with a 25-basis point trailing 12b-1 fee. However, the expense ratio of one mutual fund portfolio is a little lower than the other. Furthermore, Gabriella's firm will receive revenue sharing payments from the mutual fund company that has the lower expense ratio. Gabriella's firm does not allow its individual representatives to receive additional direct or indirect compensation or benefits resulting from revenue sharing payments paid to the firm.

Gabriella recommends that Santiago and Renata purchase the mutual fund portfolio that would result in revenue sharing payments paid to Gabriella's firm (and has the lower expense ratio).

QUESTION:

Which of the following is the best statement(s) with respect to Gabriella's obligation to manage conflicts of interest?

RESPONSE OPTIONS:

A. **Gabriella may make the recommendation of the lower cost mutual fund portfolio without any disclosure or other management steps because the payment of revenue sharing payments to Gabriella's Firm is not a Material Conflict of Interest.**

B. **Gabriella can recommend the mutual fund portfolio that would pay revenue sharing so long as she discloses the firm's conflict of interest and receives the Clients' informed consent because the expense ratio of that mutual fund portfolio is lower than the other and the recommendation is less expensive for Santiago and Renata.**

C. **Gabriella must recommend the mutual fund portfolio that does not pay Gabriella's firm revenue sharing because the payment of revenue sharing is a Material Conflict of Interest that cannot be adequately disclosed or otherwise managed.**

Best Response: Response B is the best response. This case study involves the Duty to Disclose and Manage Conflicts of Interest (Standard A.5.) and the definitions of Conflict of Interest and Material (Glossary).

A Conflict of Interest exists when a CFP® professional's interests (including the interests of the CFP® Professional's Firm) are adverse to the CFP® professional's duties to a Client. A Conflict of Interest is Material when a reasonable Client or prospective Client would consider the information important in making a decision. When providing Financial Advice to a Client, a CFP® professional must avoid conflicts or make full disclosure of all Material Conflicts of Interest with the Client that could affect the professional relationship, obtain the Client's informed consent, and manage the conflict in the Client's best interests.

To manage conflicts, CFP® professionals must adopt and follow business practices reasonably designed to prevent Material Conflicts of Interest from compromising the CFP® professional's ability to act in the Client's best interests. As described in CFP Board's Guide to Managing Material Conflicts of Interest, in developing business practices for conflicts management for identified conflicts, a CFP® professional should review and evaluate the CFP® Professional's Firm's conflict management or mitigation practices and any additional conflict management practices that the CFP® professional follows. The CFP® professional then should consider and implement any additional steps the CFP® professional needs to take to properly manage conflicts in accordance with the CFP® professional's Duty of Care, in a manner that is reasonably designed to result in Financial Advice that is in the Client's best interests despite the conflict of interest. The CFP® professional's process must reflect the practices of a prudent CFP® professional and must be proportional to the size of the conflict. The greater the conflict of interest, the more carefully CFP Board will scrutinize the conflict management process. A CFP® professional also should consider documenting the basis for the recommendations, including the conflict management process that the CFP® professional followed. A CFP® professional should keep in mind that a Material Conflict of Interest may be so great that it cannot be reasonably managed and therefore must be avoided.

In this scenario, Gabriella's firm will earn more compensation if she recommends that Santiago and Renata purchase shares of the mutual fund company that pays revenue sharing. This is a Material Conflict of Interest under CFP Board's *Code of Ethics and Standard of Conduct (Code and Standards)* because Gabriella is incented to recommend the mutual fund portfolio that will generate revenue sharing payments to her firm. Therefore, Response A is not the best response. Gabriella must ensure the conflict is adequately disclosed to Santiago and Renata and obtain their informed consent to the conflict prior to providing Financial Advice to the couple.

A CFP® professional might be able to manage a Material Conflict of Interest such as this one through a process, consistent with the CFP® professional's Duty of Care, that is reasonably designed to result in Financial Advice that is in the Clients' best interests despite the conflicts of interest. Here, Gabriella can manage the Material Conflict of Interest created by the payment of revenue sharing payments to her firm by relying on the type of prudent process described above to determine which alternative is in the best interests of Renata and Santiago based on their goals, risk tolerance, objectives, and financial and personal circumstances. As noted above, Gabriella has already determined that the benefits of investing in the two mutual fund portfolios are the same and the cost to Renata and Santiago is less if they invest in the mutual fund portfolio that pays revenue sharing. Therefore, under these circumstances, the payment of revenue sharing to the firm is not compromising Gabriella's ability to act in Santiago and Renata's best interests if she recommends the mutual fund portfolio that has the lower expense ratio. Response B is the best response.

Response C is not the best response because, in addition to relying on her firm's disclosures, she can manage the conflict of interest resulting from the recommendation of the fund that pays revenue sharing through a process, consistent with the CFP® professional's Duty of Care, that is reasonably designed to result in Financial Advice that is in the Clients' best interests despite the conflicts of interest. If she could not act in the Client's best interests, then she may need to limit the Scope of Engagement or decline to provide the Financial Advice.

Relevant Standards and Definitions: Disclose and Manage Conflicts of Interest (Standard A.5); definitions of Conflict of Interest and Material (Glossary).

7. THE DUTY TO MANAGE MATERIAL CONFLICTS OF INTEREST WHEN MAKING AN ACCOUNT TYPE RECOMMENDATION

Ann, a CFP® professional, works for a large dually registered broker-dealer/investment adviser firm. Ann has a new client, Sam, who is in his late-20s and never has invested in the market. Sam has $100,000 in a savings account, and he has asked Ann to help him invest the assets in mutual funds. Sam hopes to use the investment to pay for a vacation home but does not plan to use the funds for at least 10 years. Sam has a moderate risk tolerance. Sam believes he will have approximately $10,000 in additional funds to invest each year, probably all at once because of anticipated annual bonus payments. Since Sam is new to investing, he wants Ann to provide ongoing assistance with his investments; however, he does not want to give Ann discretion in his account.

As a representative of a dually registered firm, Ann could recommend that Sam open either a non-discretionary advisory account or a brokerage account. If Sam opens a brokerage account, he will pay a commission (or transaction-based fee) to Ann (and her firm) every time he buys or sells an investment. If he opens an advisory account, he will pay Ann (and her firm) an annual fee of 1.25% of the assets in the account. Over time, Ann and her firm likely would receive more compensation through the advisory account than the brokerage account. However, advisory accounts provide clients with additional services, including ongoing advisory services, as compared to brokerage accounts.

Ann identifies the Material Conflict of Interest that arises from her account type recommendation and the compensation she may receive. She sufficiently discloses the conflict to Sam and obtains his informed consent to the conflict prior to providing Financial Advice.

QUESTION:

Which of the following is the best statement(s) with respect to Ann's management of her Material Conflict of Interest?

RESPONSE OPTIONS:

A. **Ann could manage the conflict by recommending that Sam open a brokerage account and purchase front-end load mutual funds with the initial $100,000 investment, but then transfer the existing mutual funds and make new purchases in an advisory account the following years.**

B. **Ann could recommend either account type so long as her fees are competitive with other firms.**

C. **Ann should make her recommendation of account type using a process reasonably designed to result in a determination of which account is in Sam's best interest.**

D. **Ann must recommend the brokerage account to Sam because it likely will result in him paying less over time.**

Best Response: Response C is the best response. This case study involves the Fiduciary Duty (Standard A.1.), the Duty to Disclose and Manage Conflicts of Interest (Standard A.5.), and the definitions of Conflict of Interest and Material (Glossary).

A Conflict of Interest exists when a CFP® professional's interests (including the interests of the CFP® Professional's Firm) are adverse to the CFP® professional's duties to a Client. A Conflict of Interest is Material when a reasonable Client or prospective Client would consider the information important in making a decision. When providing Financial Advice to a Client, a CFP® professional must make full disclosure of all Material Conflicts of Interest with the Client that could affect the professional relationship, obtain the Client's informed consent, and manage the conflict in the Client's best interests. In this case, the likelihood that Ann will receive greater compensation over time if Sam opens an advisory account than a brokerage account is a Material Conflict of Interest. As noted, Ann adequately disclosed the Material Conflict of Interest and obtained Sam's informed consent to the conflict.

To manage conflicts, CFP® professionals must adopt and follow business practices reasonably designed to prevent Material Conflicts of Interest from compromising the CFP® professional's ability to act in the Client's best interests. As described in CFP Board's Guide to Managing Material Conflicts of Interest, in developing business practices for conflicts management for identified conflicts, a CFP® professional should review and evaluate the CFP® Professional's Firm's conflict management or mitigation practices and any additional conflict management practices that the CFP® professional individually uses. The CFP® professional should then consider and implement any additional steps the CFP® professional needs to take to properly manage conflicts in accordance with the CFP® professional's Duty of Care, in a manner that is reasonably designed to result in Financial Advice that is in the Client's best interests despite the conflict of interest. The CFP® professional's process must reflect the practices of a prudent CFP® professional and must be proportional to the size of the conflict. The greater the conflict of interest, the more carefully CFP Board will scrutinize the conflict management process. A CFP® professional also should consider documenting the basis for the recommendations, including the conflict management process that the CFP® professional followed. CFP® professionals should keep in mind that a Material Conflict of Interest may be so great that it cannot be reasonably managed and therefore must be avoided.

In this case study, Ann likely will receive more compensation over time if Sam invests through a fee-based (advisory) account as compared to a commission-based (brokerage) account. As a result, Ann has a greater incentive to recommend a fee-based advisory account than the commission-based brokerage account. However, fee-based accounts provide clients with additional services, including ongoing advisory services, as compared to commission-based accounts. Sam has indicated that, although he may only invest funds once per year, he intends to continue making investments and, because he is a novice investor, he needs ongoing assistance with his investments.

To manage this conflict, Ann should look first to her firm's conflicts management or mitigation policies and procedures to ensure that the recommended account type is and remains appropriate, including with respect to the account type selection process and any required periodic review of accounts. If these firm policies and procedures do not adequately address the management of Ann's conflict of interest, then she also can manage the Material Conflict of Interest by relying on her own process for determining which alternative is in the best interest of her Client based on the Client's goals, risk tolerance, objectives, and financial and personal circumstances, in a manner that reflects the practices of a prudent CFP® professional. Therefore, Response C is the best response.

Response A is not the best response because any recommendation that Sam purchase a mutual fund that is subject to a front-end sales load and, shortly thereafter, move those mutual fund shares into an investment advisory account that is subject to an asset-based advisory fee would result in Sam effectively paying twice for the same recommendation. Under the facts as described, this is a conflict that cannot be managed under the *Code and Standards*.

Response B is not the best response because the obligation of the CFP® professional is to make a recommendation in the best interest of the Client. The fact that Ann's fees are in line with another financial professional's does not satisfy Ann's Duty of Care. As described above, Ann must use a process to determine which alternative is in her Client's best interest based on the Client's goals, risk tolerance, objectives, and financial and personal circumstances. For example, the facts stated above indicate that Ann may determine that the advisory account and the associated ongoing monitoring that the advisory account will provide are in Sam's best interest even though it will likely provide more compensation to her over time. For that reason, Response D also is not the best response.

Relevant Standards and Definitions: Fiduciary Duty (Standard A.1.), Disclose and Manage Conflicts of Interest (Standard A.5); definitions of Conflict of Interest and Material (Glossary).

A. DUTIES OWED TO CLIENTS, 9. CONFIDENTIALITY AND PRIVACY

1. THE DUTY OF CONFIDENTIALITY AND PRIVACY REQUIRES REASONABLE STEPS TO PROTECT CLIENT INFORMATION

Mei is a CFP® professional who works for a financial services firm. She is the financial professional for Clients Jin and Fen.

Mei meets with Jin and Fen to discuss updates to their financial plan. Based upon the meeting, Mei needs to send documents to Jin and Fen. Mei uses her firm's e-mail system to share documents with Jin and Fen. However, the firm was experiencing a system error and the firm's email system was inoperative.

Because some of the documents were time-sensitive, including documents that required a same-day response, Mei does not believe she can wait for the firm's systems to come back online. Instead of waiting, Mei emailed the relevant documents to her personal email, which is a commercially available email software that does not include the same level of protection as her firm's email system. Mei then used her personal email to send the documents to Jin and Fen.

QUESTION:

Did Mei's actions violate the *Code of Ethics and Standards of Conduct*?

RESPONSE OPTIONS:

A. **No. Mei did not violate CFP Board's Duty of Confidentiality and Privacy because she believed her personal email was secure.**

B. **Yes. Mei violated CFP Board's Duty of Confidentiality and Privacy by not informing the clients that she would be using her personal email.**

C. **Yes. Mei violated CFP Board's Duty of Confidentiality and Privacy by using her personal email to send documents to Jin and Fen.**

D. **No. Mei did not violate CFP Board's Duty of Confidentiality and Privacy because her clients needed to sign time-sensitive documents and her only recourse was using her personal email.**

Best Response: Response C is the best response. This case involves the Duty of Confidentiality and Privacy (Standard A.9.).

A CFP® professional, either directly or through the CFP® Professional's Firm, must take reasonable steps to protect the security of non-public personal information about any client, including the security of information stored physically or electronically, from unauthorized access that could result in harm or inconvenience to the client.

Mei's failure to ensure that she took prudent steps to protect this client information is demonstrated by the fact that this information was sent to or stored on a personal email inbox that did not have the same level of protection the information would have had if it had remained on the firm's email system.

Response A is not the best response. While Mei may have believed that her personal email was secure, that is not enough by itself to meet the standard.

Response B is not the best response. Mei's disclosure to the clients is irrelevant to the issue of whether the use of personal email violated CFP Board's Duty of Confidentiality and Privacy.

Response D is not the best response. The clients' needs to receive documents does not negate the responsibility to ensure the transfer of those documents is secure.

Relevant Standard: Confidentiality and Privacy (Standard A.9.).

2. APPLYING THE DUTY OF CONFIDENTIALITY AND PRIVACY TO THE SHARING OF NON-PUBLIC PERSONAL INFORMATION

Becky Smith, CFP® has worked with Jeff and Susan Barnes for almost fifteen years in a financial planning relationship. The Barnes are very philanthropic – Becky has assisted the Barnes with numerous charitable donations and other charitable projects. The Barnes let Becky know that if there are potential opportunities to donate to charity in the future, Becky should let them know.

Becky has recently been nominated to serve on the steering committee for a well-known charitable organization. Becky wants to provide a good impression, so she provides the names, ages, and income levels for the Barnes so the charity could solicit donations from the clients. She believes that they would be happy to be involved with her charity due to their prior philanthropy and their statements to Becky about potential charitable opportunities.

QUESTION:

Did Becky violate the duty of confidentiality and privacy under CFP Board's *Code and Standards* when she provided the clients' names and income levels to the charity?

RESPONSE OPTIONS:

A. No. The Barnes told Becky that they were interested in future opportunities to donate to charity and Becky was just acting on that request.

B. Yes. While the Barnes requested that Becky inform them of any charitable opportunities, Becky shared the Barnes' non-public personal information with the charity without first receiving permission from the Barnes.

C. No. Becky only provided the Barnes' names, ages, and general income levels.

D. Yes. But only if the charity acts on the information.

Best Response: Response B is the best response. This case involves the Duty of Confidentiality and Privacy (Standard A.9.).

A CFP® professional must keep confidential and may not disclose any non-public personal information about any prospective, current, or former Client ("client"), except that the CFP® professional may disclose information:

1. For ordinary business purposes:
    a. With the client's consent, so long as the client has not withdrawn the consent;
    b. To a CFP® Professional's Firm or other persons with whom the CFP® professional is providing services to or for the client, when necessary to perform those services;
    c. As necessary to provide information to the CFP® professional's attorneys, accountants, and auditors; and
    d. To a person acting in a representative capacity on behalf of the client;
2. For legal and enforcement purposes:
    a. To law enforcement authorities concerning suspected unlawful activities, to the extent permitted by the law;
    b. As required to comply with federal, state, or local law;
    c. As required to comply with a properly authorized civil, criminal, or regulatory investigation or examination, or subpoena or summons, by a governmental authority;
    d. As necessary to defend against allegations of wrongdoing made by a governmental authority;
    e. As necessary to present a civil claim against, or defend against a civil claim raised by, a client;
    f. As required to comply with a request from CFP Board concerning an investigation or adjudication; and
    g. As necessary to provide information to professional organizations that are assessing the CFP® professional's compliance with professional standards.

Here, while the Barnes requested that Becky inform them of any charitable opportunities, Becky shared the Barnes' non-public personal information with the charity without first receiving permission from the Barnes. Becky did not share the information for ordinary business purposes or for legal and law enforcement purposes. Although Becky shared the information to gain stature at the charity she had just joined, Becky's disclosure without the Barnes' consent is improper.

Response A is not the best response because the statement from the Barnes about a future charitable opportunity would not constitute consent to provide non-public personal information to a third party.

Response C is not the best response because the clients' names, ages, and income levels constitute non-public personal information and cannot be shared with third parties without consent.

Response D is not the best response because there is no requirement under the *Code and Standards* for the third party to take action with the non-public personal information that they receive.

Relevant Standard: Confidentiality and Privacy (Standard A.9.).

A. DUTIES OWED TO CLIENTS, 12. DUTIES WHEN REPRESENTING COMPENSATION METHOD:

1: A CFP® PROFESSIONAL FIRM'S SALES-RELATED COMPENSATION

Mildred is a CFP® professional employed by Alpha Advisory Services, Inc. ("Alpha"), a registered investment adviser. Mildred tells Thomas, a client of Alpha, that her compensation method is "fee-only." Thomas asks Mildred for investment recommendations. Mildred gathers the information that she needs, conducts an appropriate analysis, and recommends that Thomas invest in an Alpha-approved family of mutual funds after making the required disclosures. Thomas is pleased with Mildred's recommendation and directs her to make the investment. The only compensation that Mildred receives is a salary from Alpha. Mildred does not receive any additional compensation when Thomas invests in the mutual fund. Although her firm discloses the information to Clients, Mildred does not realize that Alpha receives revenue sharing payments from the mutual funds she recommends, including the Alpha-approved family of mutual funds in which Thomas has invested.

QUESTION:

Has Mildred complied with the Duties When Representing Compensation Method?

RESPONSE OPTIONS:

A. **Yes. Mildred accurately informed Thomas that she is "fee-only" because her only source of compensation is her salary and she does not receive any additional compensation when Thomas invests in the mutual fund.**

B. **No. Mildred may not refer to her compensation method as "fee-only" because her firm, Alpha, receives revenue sharing payments from mutual funds.**

C. **Yes. Mildred may refer to her compensation method as "fee-only" because she is not aware that Alpha receives revenue sharing payments from mutual funds, and thus she has no incentive to recommend the mutual funds to Clients.**

Best Response: Response B is the best response. This case involves the Duties When Representing Compensation Method (Standard A.12.).

A CFP® professional may not make false or misleading representations regarding the CFP® professional's or the CFP® Professional's Firm's method(s) of compensation. A CFP® professional may represent his or her or the CFP® Professional's Firm's compensation method as "fee-only" if:

(a) The CFP® professional and the CFP® Professional's Firm receive no Sales-Related Compensation; and

(b) Related Parties receive no Sales-Related Compensation in connection with any Professional Services the CFP® professional or the CFP® Professional's Firm provides to Clients.

Sales-Related Compensation is defined as more than a *de minimis* economic benefit, including any bonus or portion of compensation, resulting from a Client purchasing or selling Financial Assets, from a Client holding Financial Assets for purposes other than receiving Financial Advice, or from the referral of a Client to any person entity other than the CFP® Professional's Firm.

Here the revenue sharing payments are Sales Related Compensation because they are more than a de minimis economic benefit that results from the Client purchasing an investment in the mutual fund. Mildred may not refer to her compensation method as "fee-only" because her firm will receive Sales-Related Compensation. Mildred's failure to know that her firm receives Sales-Related Compensation does not excuse her representation that her compensation method is "fee-only." Whether a CFP® professional may represent his or her compensation as "fee-only" depends on the objective facts, not on his or her subjective beliefs. Mildred is responsible for knowing whether she or her firm receives Sales-Related Compensation, and whether any Related Parties receive Sales-Related Compensation in connection with any Professional Services she or her firm provides to Clients.

Response A is not the best response because Mildred may not represent her compensation method as "fee-only." While Mildred does not receive any additional compensation when her Clients invest in the mutual funds, her personal compensation is only one factor that she must consider in determining whether she may represent her compensation method as "fee-only." Mildred also must consider the compensation that her firm and any Related Parties receive. Because her firm receives Sales-Related Compensation in the form of revenue sharing payments, Mildred may not refer to her compensation method as "fee-only."

Response C is not the best response because Mildred's duty when representing her compensation method depends upon the objective facts, not her subjective understanding of the facts. A CFP® professional who decides to represent his or her compensation method as "fee-only" has a duty to know the objective facts and make truthful and non-misleading representations about those facts.

Relevant Standards and Definitions: Duties When Representing Compensation Method (Standard A.12.) Instructions (A.1.c.).

1: DUTIES WHEN RECOMMENDING ADDITIONAL PERSONS TO PROVIDE FINANCIAL OR PROFESSIONAL SERVICES TO A CLIENT

Marie is a CFP® professional who works for a financial services firm. She is the relationship manager for Clients Seth and Jennifer, who intend to retire in ten years and are looking for a financial advisor who lives locally and is able to help them address their wealth management needs. More specifically, the Clients seek a financial advisor to provide customized, active portfolio management. Marie's firm does not have a financial advisor who lives locally and is available to help them.

Several local registered investment advisors (RIAs) custody their assets with Marie's firm. The firm established requirements that an RIA must meet for the firm to recommend Clients to the RIA. The requirements set reasonable standards for the reputation, experience, and qualifications of the RIA firm and its investment adviser representatives. Marie's firm recently developed a list of RIA firms that meet the requirements after interviewing RIA firms and evaluating the reputation (including disciplinary history), experience, and qualifications of the firms and their investment adviser representatives. Marie receives a fee for each recommendation that she makes to a Client of a firm-approved RIA. In this instance, Marie arranges for Seth and Jennifer to meet with a local investment adviser representative of the firm-approved RIA who she determines will be the best fit for the Clients given the desire for customized, active portfolio management.

QUESTION:

What is Marie required to do when recommending to the Clients the RIA firm's investment adviser representative?

RESPONSE OPTIONS:

A. **Marie is not required to take any action because the Clients are not paying her firm a referral fee.**

B. **Marie may rely on her firm's vetting process for approving the RIA firm, and must disclose to the Client, at the time of the recommendation, the compensation that she, her firm, and any Related Party will receive for the recommendation if the Clients retain the local RIA.**

C. **Marie is required to independently investigate at least three local RIA firms on the firm-approved list to determine the best fit for the Clients.**

D. **Marie must enter into a written Engagement with the Clients before recommending an RIA firm.**

Best Response: Response B is the best response. This case study involves the Duties When Recommending, Engaging, and Working with Additional Persons (Standard A.13.a.).

When recommending the retention of additional persons to provide financial or Professional Services for a Client, a CFP® professional must: (1) have a reasonable basis for the recommendation based on the person's reputation, experience, and qualifications; and (2) disclose to the Client, at the time of the recommendation, any arrangement by which someone who is not the Client will compensate or provide some other material economic benefit to the CFP® professional, the CFP® Professional's Firm, or a Related Party for the recommendation.

A CFP® professional may rely on the CFP® Professional's Firm's list of approved firms if the CFP® professional understands the process the CFP® Professional's Firm used to develop the list and determines that it is reasonably designed and implemented. If a CFP® professional becomes aware of other information that makes the recommendation unreasonable, then the CFP® professional must refrain from making the recommendation.

In this instance, Marie has recommended to the Clients an investment adviser representative of a local RIA firm. Marie has a reasonable basis to make the recommendation because the RIA was on her firm's approved list of RIA referral firms, and she has a reasonable basis to believe that her firm engaged in a diligent process of selecting the RIA firms after conducting an investigation and evaluating the reputation (including disciplinary history), experience, and qualifications of the firm and its professionals against the firm's reasonable standards. Since the RIA firm will pay Marie's firm a referral fee, when Marie recommends the RIA firm to the Clients, she must disclose to the Clients the compensation arrangement that her firm has with the RIA firm.

A is not the best response because a CFP® professional has a duty when recommending an additional person to provide Professional Services for a Client that includes disclosing to the Client any arrangement by which the RIA firm will compensate Marie, Marie's firm, or a Related Party for the recommendation.

C is not the best response because Marie has a reasonable basis for relying on her firm's approved list of RIA referral firms.

In selecting RIA firms for the approved list, Marie's firm developed and applied reasonable standards for the reputation (including disciplinary history), experience, and qualifications of the RIA firm and its investment adviser representatives.

D is not the best response because Marie may make the recommendation without entering into a written Engagement with the Clients.

Relevant Standards and Definitions: Duties When Recommending, Engaging, and Working with Additional Persons (Standard A.13.a.).

2: DUTIES WHEN RECOMMENDING ANOTHER SERVICE PROVIDER

Maggie, a CFP® professional, provides Financial Advice to her Client, Ryan, a small business owner. Ryan asks Maggie to recommend an accountant to provide tax and accounting services for both Ryan's business and for him personally.

Maggie's Clients work with a variety of accountants, and Maggie has communicated with them about their services. Based upon that personal experience, Maggie develops a list of four certified public accountants (CPAs) she considers recommending. Maggie had a positive experience working with each of these individuals. Maggie talks to Clients about their experiences with those accountants and receives additional feedback about the kinds of services they offer and the quality of their services. Maggie also reviews a publicly available database that contains information about licensed CPAs in the United States to determine if any of the accountants on her list have been disciplined or have other negative information. Based on those conversations and her research, Maggie recommends one of the four accountants on her list to Ryan.

The accountant Maggie recommends to Ryan once recommended a Client to Maggie; however, Maggie and the accountant currently do not have, and never have had, an arrangement by which the accountant would recommend Clients to Maggie or by which Maggie would recommend Clients to the accountant.

QUESTION:

Did Maggie satisfy her duties when recommending the accountant?

RESPONSE OPTIONS:

A. Maggie did not satisfy her duties when recommending the accountant because her due diligence was inadequate.

B. Maggie did not satisfy her duties when recommending the accountant because she failed to inform Ryan that she previously received a Client recommendation from the accountant.

C. Maggie has no duties when recommending other service providers.

D. Maggie satisfied her duties when recommending the accountant to Ryan.

Best Response: Response D is the best response. This case study involves the Duty of Care (Standard A.1.b.) and the Duties When Recommending, Engaging, and Working With Additional Persons (Standard A.13.).

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and therefore, act in the best interests of the Client. Under the Duty of Care, a CFP® professional must act with the care, skill, prudence and diligence that a prudent professional would exercise in light of the Client's goals, risk tolerance, objectives and financial and personal circumstances. Financial Advice includes a communication that, based on its content, context, and presentation, would reasonably be viewed as a recommendation that the Client take or refrain from taking a particular course of action with respect to the selection and retention of other persons to provide financial or Professional Services to the Client.

When recommending persons to provide Professional Services to a Client, a CFP professional must, in relevant part:

i. Have a reasonable basis for the recommendation based on the person's reputation, experience, and qualifications; and

ii. Disclose to the Client, at the time of the recommendation or prior to the Engagement, any arrangement by which someone who is not the Client will compensate or provide other material economic benefit to the CFP professional, the CFP® Professional's Firm, or a Related Party for the recommendation or Engagement.

Here, Maggie's due diligence with respect to the accountant she recommended was adequate to provide her with a reasonable basis for the recommendation, based on the accountant's reputation, experience and qualifications. Maggie had personal experience working with the accountant, she consulted with Clients of the accountant to determine whether they believed that the accountant provided quality services, and she researched the accountant in a publicly-available database maintained by the state's Board of Accountancy.

Response A is not the best response because, based upon the facts provided, Maggie's due diligence provided a reasonable basis for making the recommendation.

Response B is not the best response because there is no obligation to report prior Client recommendations when recommending another service provider. However, if there was an arrangement that provided a financial benefit to Maggie for the recommendation (for example, a mutual-referral agreement), then Maggie would have been required to disclose the arrangement, obtain the Client's informed consent, and properly manage the Conflict of Interest in the Client's best interests. Whether there is an "arrangement for a financial benefit" depends on the factual circumstances. However, the more recommendations that the CFP® professional and the other service provider make to each other, the more likely it is that there is an "arrangement for financial benefit." It is a best practice to disclose recommendations that subjectively may be viewed as being the result of an arrangement. In addition, a CFP® professional should comply with the CFP® Professional's Firm's policies and procedures regarding these matters.

Response C is not the best response because a CFP® professional has duties when recommending other persons to provide Professional Services to a Client.

Relevant Standards and Definitions: Duty of Care (Standard A.1.b.); Duties When Recommending, Engaging, and Working With Additional Persons (Standard A.13.).

1: FINANCIAL ADVICE THAT REQUIRES FINANCIAL PLANNING

Bob is 50 years old. He is divorced with no children and rents his home. His only significant assets are $300,000 invested in a bank savings account and $200,000 that has accumulated in his firm's 401(k) plan. He asks Gina, a CFP® professional, to manage the assets currently held in his bank savings account, manage his cash flow, and plan for his retirement. Bob also tells Gina that he wants to focus on his long-term financial outlook. They agree that Gina will develop recommendations for the assets currently invested in the bank savings account, make cash flow recommendations, and develop long-term planning scenarios that include retirement projections. Gina and Bob enter into an investment advisory agreement so that Gina can manage the assets currently invested in Bob's bank savings account.

QUESTION 1:

Is Gina providing Financial Advice that requires Financial Planning?

RESPONSE OPTIONS:

A. Yes, Gina is providing Financial Advice that Requires Financial Planning.

B. No, Gina is not providing Financial Advice that Requires Financial Planning.

Best Response: Response A is the best response. Gina is providing Financial Advice that Requires Financial Planning. This case study involves the Application of the Practice Standards (Standard B.3.) and the Integration Factors (Standard B.4.). A CFP® professional must comply with the Practice Standards for the Financial Planning Process, and therefore, provide Financial Planning, when:

a. The CFP® professional agrees to provide or provides:

  i. Financial Planning; or

  ii. Financial Advice that requires integration of relevant elements of the Client's personal and/or financial circumstances in order to act in the Client's best interests ("Financial Advice that Requires Financial Planning"); or

b. The Client has a reasonable basis to believe the CFP® professional will provide or has provided Financial Planning.

In this case, there are insufficient facts to conclude that the written Engagement contains language requiring Gina to provide Financial Planning, or that Bob has a reasonable basis to believe that Gina will provide Financial Planning. Therefore, whether Gina must comply with the Practice Standards for Financial Planning Process depends on whether Gina's Financial Advice requires integration of relevant elements of Bob's personal and/or financial circumstances.

CFP Board has established the following Integration Factors that CFP Board will weigh in determining whether a CFP® professional has agreed to provide or provided Financial Advice that Requires Financial Planning:

a. The number of relevant elements of the Client's personal and financial circumstances that the Financial Advice may affect;

b. The portion and amount of the Client's Financial Assets that the Financial Advice may affect;

c. The length of time the Client's personal and financial circumstances may be affected by the Financial Advice;

d. The effect on the Client's overall exposure to risk if the Client implements the Financial Advice; and

e. The barriers to modifying the actions taken to implement the Financial Advice.

CFP Board would weigh the Integration Factors in this case as follows:

- Gina is addressing Bob's need for or desire to develop goals, manage assets and liabilities, manage cash flow, achieve financial security, preserve or increase wealth, and prepare for retirement. Therefore, Gina's Financial Advice may affect several relevant elements of Bob's personal and financial circumstances.
- Gina will be managing the funds currently invested in Bob's bank savings account, which has a higher value than any of Bob's other assets. Therefore, Gina's advice will affect a significant portion and amount of Bob's assets.
- Bob has asked Gina to focus on his long-term financial outlook, and to prepare long-term planning scenarios. Therefore, Gina's Financial Advice likely will affect Bob's personal and financial circumstances for a long time.

- Gina will recommend that Bob reallocate the assets currently held in the bank savings account, thereby altering the risk return profile of his holdings and exposing Bob to increased risk.
- Based upon the facts provided, it is unclear what barriers to modifying the actions taken to implement the Financial Advice may exist.

Based upon a weighing of the Integration Factors, Gina will be providing Bob with Financial Advice that Requires Financial Planning. Gina's Financial Advice (a) will affect a significant portion of Bob's Financial Assets, (b) will affect Bob's personal and financial circumstances for a long time, and (c) may affect several relevant elements of Bob's personal and financial circumstances. Because Gina is providing Bob with Financial Advice that Requires Financial Planning, she must follow the Practice Standards for the Financial Planning Process. In addition, since Gina is required to provide Financial Planning to Bob, some of the information that she may have provided to Bob orally when providing Financial Advice now must be delivered to Bob in writing.

The *Code and Standards* does not require an explicit agreement to provide Financial Planning for Financial Planning to be required. Where, as here, a CFP® professional provides or agrees to provide Financial Advice that requires integration of relevant elements of the Client's personal and/or financial circumstances to act in the Client's best interests, the CFP® professional is required to provide Financial Planning.

QUESTION 2:

Is Gina required to comply with the Practice Standards for the Financial Planning Process if Bob does not agree to engage her for Financial Planning?

RESPONSE OPTIONS:

A. Yes, Gina is required to comply with the Practice Standards for the Financial Planning Process.

B. No, Gina is not required to comply with the Practice Standards for the Financial Planning Process.

Best Response: Response B is the best response. If a CFP® professional otherwise must comply with the Practice Standards, but the Client does not agree to engage the CFP® professional to provide Financial Planning, the CFP® Professional must either:

a. Not enter into the Engagement;

b. Limit the Scope of Engagement to services that do not require application of the Practice Standards, and describe to the Client the services the Client requests that the CFP® professional will not be performing;

c. Provide the requested services after informing the Client how Financial Planning would benefit the Client and how the decision not to engage the CFP® professional to provide Financial Planning may limit the CFP® professional's Financial Advice, in which case the CFP® professional is not required to comply with the Practice Standards; or

d. Terminate the Engagement.

If Bob decides that he does not want to engage Gina for Financial Planning, Gina may provide Bob with the requested Financial Advice after informing Bob how Financial Planning would benefit him and how the decision not to engage her to provide Financial Planning may limit her Financial Advice.

Relevant Standards and Definitions: Application of Practice Standards (Standard B.3.); Integration Factors (Standard B.4.); No Client Agreement to Engage for Financial Planning (Standard B.6.).

2: WHEN A CLIENT HAS A REASONABLE BASIS TO BELIEVE A CFP® PROFESSIONAL WILL PROVIDE FINANCIAL PLANNING

Kimani, a CFP® professional, distributes a flyer inviting prospects to attend a Financial Planning Seminar. At the event, Kimani places a sign at the entrance that states: "What Financial Planning Can Do For You." Daniel, a prospect, attends the event. At an in-person meeting the following week, Daniel tells Kimani that he wants to be a Financial Planning Client, with a specific focus on retirement planning. Kimani asks Daniel to complete an investment risk profile questionnaire. Kimani does not clearly inform Daniel that she would not be providing Financial Planning. Kimani reviews Daniel's answers and, rather than providing Financial Planning, Kimani solely makes an investment recommendation.

QUESTION:

Is Kimani required to comply with the Practice Standards for the Financial Planning Process, and therefore, provide Financial Planning?

RESPONSE OPTIONS:

A. **Kimani is not required to comply with the Practice Standards for the Financial Planning Process because Kimani only provided investment planning to Daniel.**

B. **Kimani is required to comply with the Practice Standards for the Financial Planning Process because Kimani provided Financial Advice to Daniel when she conducted investment planning.**

C. **Kimani is required to comply with the Practice Standards for the Financial Planning Process because Daniel has a reasonable basis to believe that Kimani will provide or has provided Financial Planning.**

D. **Kimani is not required to comply with the Practice Standards for the Financial Planning Process because Kimani only engaged in a brokerage transaction.**

Best Response: Response C is the best response. This case study involves the Application of Practice Standards (Standard B.3.). A CFP® professional must comply with the Practice Standards for the Financial Planning Process, and therefore, provide Financial Planning, when:

a. The CFP® professional agrees to provide or provides:

  i. Financial Planning; or

  ii. Financial Advice that requires integration of relevant elements of the Client's personal and/or financial circumstances in order to act in the Client's best interests ("Financial Advice that Requires Financial Planning"); or

b. The Client has a reasonable basis to believe the CFP® professional will provide or has provided Financial Planning.

Although Daniel's Engagement does not specify that Kimani will provide Financial Planning, Daniel has a reasonable basis to believe that Kimani will provide or has provided Financial Planning: Kimani invited Daniel to a Financial Planning seminar; Daniel told Kimani that he wanted Financial Planning; Kimani advised Daniel how to invest; and Kimani did not clearly inform Daniel that she would not be providing Financial Planning. Under other facts or circumstances, the application of the Practice Standards for the Financial Planning Process may produce a different result. In addition, since Kimani is required to provide Financial Planning to Daniel, some of the information that she may have provided to Daniel orally when providing Financial Advice now must be delivered to Daniel in writing.

Response A is not the best response because Daniel had a reasonable basis to believe that Kimani would be providing Financial Planning, and thus Kimani was required to provide Financial Planning. Where Financial Planning is required, the Practice Standards for the Financial Planning Process apply even if the CFP® professional does not actually provide Financial Planning.

Response B is not the best response. The reason that the Practice Standards for the Financial Planning Process apply is not because Kimani provided Financial Advice to Daniel when she conducted investment planning. Not all Financial Advice requires Financial Planning, and the facts here are insufficient to determine whether Kimani has provided Financial Advice that requires Financial Planning. The reason that the Practice Standards for the Financial Planning Process apply is because based on the facts, Daniel has a reasonable basis to believe that Kimani will provide or has provided Financial Planning.

Response D is not the best response. The standard for determining whether the Practice Standards for the Financial Planning Process apply is not whether the Client engaged in a brokerage transaction. Where there is no explicit agreement regarding Financial Planning, the Practice Standards for the Financial Planning Process apply if the Client has a reasonable basis to believe the CFP® professional will provide Financial Planning, or if the CFP® professional provides or agrees to provide Financial Advice that Requires Financial Planning.

Relevant Standards and Definitions: Application of Practice Standards (Standard B.3.).

B. FINANCIAL PLANNING AND APPLICATION OF THE PRACTICE STANDARDS FOR THE FINANCIAL PLANNING PROCESS, 4. INTEGRATION FACTORS:

1: DETERMINING WHETHER FINANCIAL PLANNING IS REQUIRED WHEN AN ENGAGEMENT EXPANDS OVER TIME

Pedro, a CFP® professional, has a new client, Napoleon, who is 28 years old. Napoleon is engaged to be married and has a two-year old child from a previous marriage. At their first meeting, Napoleon informs Pedro that he recently received a $20 million inheritance. Napoleon asks Pedro for advice on how to invest his inheritance. Napoleon and Pedro's firm enter into an Engagement to provide investment management for the inheritance funds. Pedro's firm sends Napoleon a document stating that "the only time an Advisor is providing Financial Planning is if the engagement explicitly provides for Financial Planning."

Over time, Pedro and Napoleon's professional relationship expands, with Pedro providing "modular" Financial Advice over successive meetings:

- Prior to his wedding, Napoleon tells Pedro that he wants to purchase a home for his family. He also wants to know if he has enough money to quit his job and live off his inheritance for the rest of his life. Pedro determines, based on Napoleon's net worth, cash flow, retirement projections, and risk tolerance, that a moderate growth portfolio likely will provide Napoleon with a comfortable lifestyle and a new home. Pedro tells Napoleon that he can quit his job and advises Napoleon to continue his employer-sponsored health insurance coverage. Pedro also helps Napoleon determine how much he should spend on his new home.
- Two months after he is married, Napoleon and Pedro discuss Napoleon's need for new health insurance coverage. Pedro compares several private health insurance policies with those from the insurance marketplace, and recommends Napoleon purchase a private policy. Pedro incorporates this new expense into the cash flow analysis.
- Four months later, Napoleon tells Pedro that he would like to begin saving for his son's college. Pedro presents an education funding analysis for Napoleon's son and recommends that Napoleon front-load a 529 savings plan with a $75,000 one-time contribution. Pedro factors this expense into Napoleon's cash flow analysis.
- Sometime later, Napoleon tells Pedro he is concerned that his ex-wife and other family members may try to make a claim on his inheritance. Pedro prepares an estate planning analysis and recommends that Napoleon create Wills, Trusts, Powers of Attorney, and Health Care Directives. Pedro provides the names of three experienced, qualified, and reputable attorneys who are available to help Pedro implement the recommendation.
- At their most recent meeting, Napoleon discusses his desire to provide for his child and second wife. Pedro recommends the gifting of certain assets to an Irrevocable Trust, changing beneficiary designations, and annual gifting strategies that would benefit Napoleon's mother and his two-year old son. Pedro includes the annual gifting expense in the cash flow analysis.

QUESTION:

Is Pedro providing Financial Advice that Requires Financial Planning?

RESPONSE OPTIONS:

A. Yes, because Pedro's Financial Advice requires integration of relevant elements of Napoleon's personal and/or financial circumstances.

B. No, because Pedro did not create a comprehensive financial plan, but instead delivered modular Financial Advice over the course of several meetings.

C. No, because Pedro did not specifically state that he was performing Financial Planning.

D. No, because Pedro's firm's disclosure document states that "the only time an Advisor is providing Financial Planning is if the Advisor and client explicitly agree to the engagement."

Best Response: A is the best response. Pedro is providing Financial Advice that requires Financial Planning. This case study involves the Application of the Practice Standards for the Seven-Step Financial Planning Process (Standard B.3.) ("Practice Standards"), the Integration Factors (Standard B.4.), and the Duty to Provide Information to a Client (Standard A.10.).

A CFP® professional must comply with the Practice Standards, and therefore, provide Financial Planning, when:

a. The CFP® professional agrees to provide or provides:

    i. Financial Planning; or

    ii. Financial Advice that requires integration of relevant elements of the Client's personal and/or financial circumstances in order to act in the Client's best interests ("Financial Advice that Requires Financial Planning"); or

b. The Client has a reasonable basis to believe the CFP® professional will provide or has provided Financial Planning.

Pedro's firm does not have an explicit agreement for Pedro to provide Financial Planning to Napoleon. Pedro also has not discussed Financial Planning with Napoleon, and Napoleon has no reasonable basis to believe that Pedro will be providing Financial Planning. Therefore, the issue is whether Pedro's Financial Advice requires integration of relevant elements of Napoleon's personal and/or financial circumstances in order to act in Napoleon's best interests, such that Pedro is required to provide Financial Planning to Napoleon. CFP Board has established the following Integration Factors that CFP Board will weigh in making that determination:

a. The number of relevant elements of the Client's personal and financial circumstances that the Financial Advice may affect;

b. The portion and amount of the Client's Financial Assets that the Financial Advice may affect;

c. The length of time the Client's personal and financial circumstances may be affected by the Financial Advice;

d. The effect on the Client's overall exposure to risk if the Client implements the Financial Advice; and

e. The barriers to modifying the actions taken to implement the Financial Advice.

CFP Board would weigh the Integration Factors in this case as follows:

- Pedro is addressing Napoleon's need for or desire to develop goals, manage assets and liabilities, manage cash flow, identify and manage the financial effect of health considerations, provide for educational needs, preserve or increase wealth, prepare for retirement, and address estate and legacy matters. Therefore, Pedro's Financial Advice may affect several relevant elements of Napoleon's personal and financial circumstances, which weighs in favor of a finding that Financial Planning is required.
- Pedro will be managing Napoleon's $20 million inheritance, which is a significant portion of Napoleon's Financial Assets and a significant amount of Financial Assets. Therefore, this factor weighs in favor of a finding that Financial Planning is required.
- Napoleon has asked Pedro to focus on his long-term financial outlook, and to prepare long-term planning scenarios. Therefore, Pedro's Financial Advice likely will affect Napoleon's personal and financial circumstances for a long time, which weighs in favor of a finding that Financial Planning is required.
- It is not clear how Pedro's analysis, including the assumptions he uses and the recommendations he makes, will impact Napoleon's overall risk exposure. Therefore, this factor does not weigh for or against a finding that Financial Planning is required.
- Pedro is recommending a large deposit in a 529 savings plan ($75,000). If Napoleon needs to access the money in the 529 savings plan for something other than qualified education expenses, he may have to pay taxes and a penalty. In addition, Pedro is recommending that Napoleon gift assets to an Irrevocable Trust, as well as to Napoleon's mother and son. These facts weigh in favor of a finding that Financial Planning is required because, if implemented, these recommendations would be difficult to modify.

Based upon a weighing of the Integration Factors, Pedro will be providing Napoleon with Financial Advice that Requires Financial Planning. Most significantly, Pedro's Financial Advice (a) will affect most of Napoleon's Financial Assets; (b) may affect several relevant elements of Napoleon's personal and financial circumstances; (c) will affect Napoleon's personal and financial circumstances for a long time; and (d) may be difficult to modify, if implemented.

Where, as here, a CFP® professional provides or agrees to provide Financial Advice that requires integration of relevant elements of the Client's personal and/or financial circumstances to act in the Client's best interests, then the CFP® professional has additional duties to the Client, unless the Client does not want to engage the CFP® professional to provide Financial Planning.

If the Client does not agree to engage the CFP® professional to provide Financial Planning, then the CFP® professional must either:

a. Not enter into the Engagement;

b. Limit the Scope of Engagement to services that do not require application of the Practice Standards, and describe to the Client the services the Client requests that the CFP® professional will not be performing;

c. Provide the requested services after informing the Client how Financial Planning would benefit the Client and how the decision not to engage the CFP® professional to provide Financial Planning may limit the CFP® professional's Financial Advice, in which case the CFP® professional is not required to comply with the Practice Standards; or

d. Terminate the Engagement.

In this case, Pedro's and Napoleon's professional relationship has expanded over time and is not limited to the provision of investment advice. There is no indication that Napoleon does not want to engage Pedro to provide Financial Planning. Therefore, Pedro is required to provide Financial Planning to Napoleon.

When Pedro's Financial Advice expands to the point that the Financial Advice requires Financial Planning, Pedro has additional duties to Napoleon. Pedro is required to provide Financial Planning and to comply with the Practice Standards. In addition, under the Duty to Provide Information to a Client, most of the information that Pedro may have provided to Napoleon orally (or in writing) when providing Financial Advice now must be delivered to Napoleon in writing, in one or more written documents. This includes the following information, which must be provided prior to or at the time of Engagement:

- A description of the services and products to be provided;
- How the Client pays for the products and services, and a description of the additional types of costs that the Client may incur;
- How the CFP® professional, the CFP® Professional's Firm's, and any Related Party are compensated for providing the products and services;
- The existence of any public discipline and bankruptcy, and the locations of the webpages of certain public websites that sets forth the CFP® professionals' public disciplinary history or any personal or business bankruptcy when the CFP® professional was a Control Person;
- Full disclosure of all Material Conflicts of Interest with the CFP® professional's Client that could affect the professional relationship, including sufficiently specific facts so that a reasonable Client would be able to understand the CFP professional's Material Conflicts of Interest and the business practices that give rise to the conflicts, and give informed consent to such conflicts or reject them;
- A written notice at the time of the Engagement identifying policies regarding the protection, handling, and sharing of a client's non-public personal information that were adopted and implemented by the CFP® professional's Firm, and thereafter not less than annually except under certain enumerated circumstances.
- Any arrangement by which someone who is not the Client will compensate or provide some other material economic benefit to the CFP® professional, the CFP® Professional's Firm, or a Related Party for engaging or recommending the selection or retention of additional persons to provide financial or Professional Services for a Client; and
- Any other information about the CFP® professional or the CFP® Professionals' Firm that is Material to a Client's decision to engage or continue to engage the CFP® professional or the CFP® Professional's Firm.

Pedro also must provide to Napoleon the terms of the Engagement, including the Scope of Engagement and any limitations, the periods during which the services will be provided, and Napoleon's responsibilities. Pedro is responsible for implementing, monitoring, and updating the Financial Planning recommendation(s) unless specifically excluded from the Scope of Engagement.

Response B is not the best response because Pedro is not required to provide one document called a "financial plan" to be required to provide Financial Planning. Pedro provides Financial Advice to Napoleon in modules, with the breadth of the Financial Advice expanding over time. The scope of the Financial Advice is such that Pedro is required to integrate relevant elements of Napoleon's personal and/or financial circumstances in order to act in Napoleon's best interests. Therefore, Pedro is providing Financial Advice that requires Financial Planning.

Responses C and D are not the best responses because they offer reasons that do not determine whether Pedro must provide Financial Planning. Instead, that determination depends on whether Pedro's Financial Advice requires integration of relevant elements of Napoleon's personal and/or financial circumstances. A CFP® professional who does not explicitly state that he or she is providing Financial Planning still may be required to provide Financial Planning and comply with the duties that apply when Financial Planning is required.

Relevant Standards and Definitions: Application of Practice Standards (Standard B.3.); Integration Factors (Standard B.4.); Duty to Provide Information to a Client (Standard A.10.).

B. FINANCIAL PLANNING AND APPLICATION OF THE PRACTICE STANDARDS FOR THE FINANCIAL PLANNING PROCESS, 4. INTEGRATION FACTORS:

2: WHEN FINANCIAL ADVICE DOES NOT REQUIRE FINANCIAL PLANNING

Juan, a CFP® professional, receives a call from prospective clients Cristabella and Miguel. They are expecting their first child and want to begin to save for the child's education. Juan sends Cristabella and Miguel a questionnaire, which they complete and return to Juan, requesting personal information such as their names, ages, net worth, income, and risk profile. Juan schedules a meeting to better understand their personal and financial circumstances. After the meeting, Juan uses his education funding calculator to prepare an education funding analysis applying a balanced risk tolerance that is consistent with Cristabella and Miguel's answers on the questionnaire. Juan agrees to examine in-state and out-of-state college costs and determine the monthly amount they would need to save to fund the education goal for either an in-state or out-of-state educational institution.

QUESTION 1:

Is Juan required to provide Financial Planning to Cristabella and Miguel?

RESPONSE OPTIONS:

A. Yes, Juan is required to provide Financial Planning to Cristabella and Miguel.

B. No, Juan is not required to provide Financial Planning to Cristabella and Miguel.

Best Response: Response B is the best response. This question involves the Application of the Practice Standards for the Seven-Step Financial Planning Process (Standard B.3.) ("Practice Standards"), the Integration Factors (Standard B.4.), and the Duty to Provide Information to a Client (Standard A.10.).

A CFP® professional must comply with the Practice Standards, and therefore, provide Financial Planning, when:

a. The CFP® professional agrees to provide or provides:

   i. Financial Planning; or

   ii. Financial Advice that requires integration of relevant elements of the Client's personal and/or financial circumstances in order to act in the Client's best interests ("Financial Advice that Requires Financial Planning"); or

b. The Client has a reasonable basis to believe the CFP® professional will provide or has provided Financial Planning.

In this circumstance, there is no explicit agreement for Juan to provide Financial Planning to Cristabella and Miguel. In addition, Cristabella and Miguel do not have a reasonable basis to believe Juan will provide or has provided Financial Planning. Therefore, the issue is whether Juan's Financial Advice requires integration of relevant elements of Cristabella and Miguel's personal and/or financial circumstances in order to act in Cristabella and Miguel's best interests, such that Juan is required to provide Financial Planning to Cristabella and Miguel. CFP Board has established the following "Integration Factors" that CFP Board will weigh in making that determination:

a. The number of relevant elements of the Client's personal and financial circumstances that the Financial Advice may affect;

b. The portion and amount of the Client's Financial Assets that the Financial Advice may affect;

c. The length of time the Client's personal and financial circumstances may be affected by the Financial Advice;

d. The effect on the Client's overall exposure to risk if the Client implements the Financial Advice; and

e. The barriers to modifying the actions taken to implement the Financial Advice.

In this circumstance, Cristabella and Miguel have requested education planning. CFP Board would weigh the Integration Factors as follows:

- Juan's Financial Advice will not affect many relevant elements of Cristabella's and Miguel's personal and financial circumstances. Cristabella and Miguel have not asked Juan to help them manage assets and liabilities, identify and manage risks, preserve or increase wealth, prepare for retirement, or address other long-term goals. Moreover, the Financial Advice that Juan provided was limited. Juan was able to provide Financial Advice using an education funding calculator that enabled him to determine the amount of money Cristabella and Miguel would need to save each month to fund their education goal. This factor weighs against a finding that Financial Planning is required.

- The portion and amount of Cristabella and Miguel's Financial Assets that may be affected by Juan's Financial Advice is limited, given that Juan only would be providing Finance Advice on a saving strategy for the account (such as a 529 savings plan) that they will use to meet their education goal. Therefore, this factor also weighs against a finding that Financial Planning is required.
- Cristabella's and Miguel's personal and financial circumstances may be affected for a lengthy period of time, given that the education goal will span a 22-year time frame (i.e., 18 years of saving prior to college plus 4 years of spending during college). This weighs in favor of a finding that Financial Planning is required.
- The effect on Cristabella and Miguel's overall exposure to risk should be limited since they will be adding money on a monthly basis in a balanced portfolio. This factor weighs against a finding that Financial Planning is required.
- The barriers to modifying the actions taken to implement Financial Advice to fund a 529 plan weigh in favor of a finding that Financial Planning is required because there are barriers to taking funds out of a 529 savings plan. If Cristabella and Miguel need to access the money in the 529 savings plan for something other than for qualified education expenses, then they may have to pay taxes and a penalty.

Based upon a weighing of the Integration Factors, Juan is not providing Cristabella and Miguel with Financial Advice that requires Financial Planning. Therefore, Juan is not responsible for providing Financial Planning, complying with the Practice Standards, or providing the additional information that the Duty to Provide Information to a Client requires a CFP® professional to provide to a Client when providing or required to provide Financial Planning. Nevertheless, Juan is required to comply with the Fiduciary Duty that applies when providing Financial Advice to a Client as well as the Duties that apply at all times, such as the Duties of Integrity, Competence, and Diligence.

QUESTION 2:

Would Juan be required to provide Financial Planning to Cristabella and Miguel if they requested Financial Advice with respect to both education and retirement savings?

RESPONSE OPTIONS:

A. **Yes, Juan may be required to provide Financial Planning to Cristabella and Miguel.**

B. **No, Juan will not be required to provide Financial Planning to Cristabella and Miguel.**

Best Response: Response A is the best response. This question involves the same standards that applied to Question 1.

In this circumstance, Juan may be required to provide Financial Planning if Cristabella and Miguel request additional Financial Advice beyond the education analysis that they already requested.

CFP Board would weigh the Integration Factors in this case as follows:

- Juan is addressing several additional relevant elements of Miguel and Cristabella's personal and financial circumstances, including their need for or desire to manage cash flow in order to provide for retirement needs, insurance needs, and educational needs, which weighs in favor of a finding that Financial Planning is required.
- The Financial Advice will affect most, if not all, of Miguel's and Cristabella's Financial Assets, which also weighs in favor of a finding that Financial Planning is required.
- Since Juan will be providing Cristabella and Miguel with retirement projections for their life expectancy, an insurance need analysis to life expectancy, and a 22-year education analysis, the Financial Advice may affect Cristabella's and Miguel's personal and financial circumstances for a long time. This weighs in favor of a finding that Financial Planning is required.
- Cristabella's and Miguel's overall exposure to risk may increase because Juan will be reviewing all of their Financial Assets, including their 401k plans and insurance policies, and may recommend changes to their retirement contributions, asset allocation, and insurance coverage. This also weighs in favor of a finding that Financial Planning is required.
- The barriers to modifying the actions taken to implement the Financial Advice also may increase. Juan may recommend changes to life insurance coverage that may be difficult to modify if Cristabella and Miguel's health changes or as they age. In addition, Juan may provide Financial Advice regarding a Roth IRA conversion, the purchase of a deferred annuity, and maximizing 401k plan contributions. Each of these actions may be difficult to modify in the future, and thus would weigh in favor of a finding that Financial Planning is required.

Based upon a weighing of the Integration Factors, Juan would be providing Miguel and Cristabella with Financial Advice that requires Financial Planning. Most significantly, Juan's Financial Advice likely will: (a) affect several relevant elements of Cristabella's and Miguel's personal and financial circumstances; (b) affect Cristabella's and Miguel's personal and financial circumstances for a long time; and (c) be difficult to modify, if implemented. Therefore, Juan would be required to provide Financial Planning to Cristabella and Miguel.

Because Juan is required to provide Financial Planning, Juan has additional duties to Cristabella and Miguel. Juan is required to comply with the Practice Standards. In addition, under the Duty to Provide Information to a Client, most of the information that Juan may have provided to Miguel and Cristabella orally (or in writing) when providing Financial Advice now must be delivered to them in writing, in one or more written documents. This includes the following information, which must be provided prior to or at the time of Engagement:

- A description of the services and products to be provided;
- How the Client pays for the products and services, and a description of the additional types of costs that the Client may incur;
- How the CFP® professional, the CFP® Professional's Firm's, and any Related Party are compensated for providing the products and services;
- The existence of any public discipline and bankruptcy, and the locations of the webpages of certain public websites that sets for the CFP® professionals' public disciplinary history or any personal or business bankruptcy when the CFP® professional was a Control Person;
- Full disclosure of all Material Conflicts of Interest with the CFP® professional's Client that could affect the professional relationship, including sufficiently specific facts so that a reasonable Client would be able to understand the CFP professional's Material Conflicts of Interest and the business practices that give rise to the conflicts, and give informed consent to such conflicts or reject them;
- A written notice at the time of the Engagement identifying policies regarding the protection, handling, and sharing of a client's non-public personal information that were adopted and implemented by the CFP® professional's Firm, and thereafter not less than annually except under certain enumerated circumstances.
- Any arrangement by which someone who is not the Client will compensate or provide some other material economic benefit to the CFP® professional, the CFP® Professional's Firm, or a Related Party for engaging or recommending the selection or retention of additional persons to provide financial or Professional Services for a Client; and
- Any other information about the CFP® professional or the CFP® Professionals' Firm that is Material to a Client's decision to engage or continue to engage the CFP® professional or the CFP® Professional's Firm.

Juan also must provide to Cristabella and Miguel the terms of the Engagement, including the Scope of Engagement and any limitations, the periods during which the services will be provided, and Cristabella and Miguel's responsibilities. Juan is responsible for implementing, monitoring, and updating the Financial Planning recommendation(s) unless specifically excluded from the Scope of Engagement.

QUESTION 3:

If Juan determines that it is in Cristabella and Miguel's best interests to deliver Financial Planning to Cristabella and Miguel, but Cristabella and Miguel confirm that they do not want Financial Planning, is Juan still required to comply with the Practice Standards?

RESPONSE OPTIONS:

A. Yes, Juan is required to comply with the Practice Standards if Cristabella and Miguel do not want Financial Planning.

B. No, Juan is not required to comply with the Practice Standards if Cristabella and Miguel do not want Financial Planning.

Best Response: Response B is the best response. This question involves the standard "No Client Agreement to Engage for Financial Planning" (Standard B.6.).

If a CFP® professional otherwise must comply with the Practice Standards, but the Client does not agree to engage the CFP® professional to provide Financial Planning, then the CFP® professional must either:

a. Not enter into the Engagement;

b. Limit the Scope of Engagement to services that do not require application of the Practice Standards, and describe to the Client the services the Client requests that the CFP® professional will not be performing;

c. Provide the requested services after informing the Client how Financial Planning would benefit the Client and how the decision not to engage the CFP® professional to provide Financial Planning may limit the CFP® professional's Financial Advice, in which case the CFP® professional is not required to comply with the Practice Standards; or

d. Terminate the Engagement.

In this circumstance, Juan is not required to comply with the Practice Standards. Although Juan believes it is in Cristabella's and Miguel's best interests to engage in Financial Planning, Cristabella and Miguel decide they only want Financial Advice on education funding and retirement savings. Therefore, Juan and the Clients agree that Juan will provide them only educational and retirement planning, after Juan informs Cristabella and Miguel how Financial Planning would benefit them and how the decision to not engage him to provide Financial Planning may limit his Financial Advice.

Consequently, because Juan is not providing Financial Planning to Cristabella and Miguel, Juan is not required to comply with the Practice Standards. Juan also is not required to comply with the additional requirements set forth in the Duty to Provide Information to a Client that apply when a CFP® professional is providing or required to provide Financial Planning in accordance with the Practice Standards, nor is he required to provide the terms of their Engagement in writing. Nevertheless, Juan is required to comply with the Fiduciary Duty that applies when providing Financial Advice to a Client as well as the Duties that apply at all times, such as the Duties of Integrity, Competence, and Diligence.

Relevant Standards and Definitions: Application of Practice Standards (Standard B.3.); Integration Factors (Standard B.4.); No Client Agreement to Engage for Financial Planning (Standard B.6.); Duty to Provide Information to a Client (Standard A.10.).

B. FINANCIAL PLANNING AND APPLICATION OF THE PRACTICE STANDARDS FOR THE FINANCIAL PLANNING PROCESS, 4. INTEGRATION FACTORS:

3. WHEN CASH FLOW PLANNING DOES (AND DOES NOT) REQUIRE FINANCIAL PLANNING

Cindy, a CFP® professional, manages three portfolios for Greg and Marcia, her long-time clients. Greg and Marcia describe to Cindy the cash flow that they anticipate needing from these portfolios over the next 24 months to fund other planned investments. They ask Cindy to develop a cash flow plan that illustrates the income projections from each portfolio, the account from which they should withdraw cash to meet their cash flow needs, and how they should allocate the investments in each portfolio in view of the anticipated timing of the withdrawals from each account. Cindy provides Greg and Marcia no other Financial Advice. Greg and Marcia have additional investment accounts, including a retirement account, that Cindy does not manage. While the amounts in the portfolios Cindy manages are significant, the other accounts hold the majority of Greg and Marcia's Financial Assets. Greg and Marcia direct Cindy not to include these other accounts in her illustration.

QUESTION:

Is Cindy providing Financial Advice that Requires Financial Planning?

RESPONSE OPTIONS:

- **A. Yes, because Cindy's Financial Advice requires integration of relevant elements of Greg and Marcia's personal and financial circumstances in order to act in the Client's best interests.**
- **B. No, because Cindy's Finance Advice is limited to managing three portfolios and providing cash flow planning on the portfolios that she manages.**
- **C. No, because the engagement does not specifically provide for Financial Planning.**
- **D. Yes, because Financial Advice on investment cash flow planning is difficult to modify should Greg and Marcia change their minds about their cash flow needs.**

Best Response: B is the best response. Cindy is providing Financial Advice that does not require Financial Planning. This case study involves the Integration Factors (Standard B.4).

Peter, a CFP® professional, provides Financial Advice to Jan and Bobby, his long-time clients, on all their investment accounts, including their retirement plan. Peter meets with Jan and Bobby to discuss their retirement goals and engage in retirement planning. Peter develops a cash flow plan for Jan and Bobby's retirement that identifies their retirement dates and includes estimates for income and expenses, social security payments, required minimum distributions from their retirement plans, and pension payments. The cash flow plan illustrates the income projections from each account in their portfolio, the account from which they should withdraw cash to meet their cash flow needs, and how they should allocate the investments in each portfolio in view of the anticipated timing of withdrawals from each account. The plan illustrates how their income may support their monthly retirement expenses until they both reach age 95. Peter never specifically states that he is providing Financial Planning to Jan and Bobby.

QUESTION:

Is Peter providing Financial Advice that Requires Financial Planning?

RESPONSE OPTIONS:

- **A. Yes, because Peter's Financial Advice requires integration of relevant elements of Jan and Bobby's personal and financial circumstances in order to act in the Client's best interests.**
- **B. No, because Peter's Financial Advice is limited to investment advice and cash flow planning.**
- **C. No, because the engagement does not specifically provide for Financial Planning.**
- **D. Yes, because Jan and Bobby have a reasonable basis to believe that Peter will be performing Financial Planning.**

Best Response: A is the best response. Peter is providing Financial Advice that does requires Financial Planning. This case study involves the Integration Factors (Standard B.4).

A CFP® professional must comply with the Practice Standards when:

1. The CFP® professional agrees to provide or provides:
   a. Financial Planning; or
   b. Financial Advice that requires integration of relevant elements of the Client's personal and/or financial circumstances in order to act in the Client's best interests ("Financial Advice that Requires Financial Planning"); or
2. The Client has a reasonable basis to believe the CFP® professional will provide or has provided Financial Planning.

Here neither firm has an explicit agreement to provide Financial Planning to clients. The CFP® professional does not discuss Financial Planning with the clients and the clients have no reasonable basis to believe that the CFP® professional will be providing Financial Planning. Therefore, the issue is whether the CFP® professional's Financial Advice requires integration of relevant elements of the clients personal and/or financial circumstances in order to act in their best interests, such that the CFP® professional is required to provide Financial Planning to the clients. CFP Board has established the following Integration Factors that CFP Board will weigh in making that determination:

- The number of relevant elements of the Client's personal and financial circumstances that the Financial Advice may affect;
- The portion and amount of the Client's Financial Assets that the Financial Advice may affect;
- The length of time the Client's personal and financial circumstances may be affected by the Financial Advice;
- The effect on the Client's overall exposure to risk if the Client implements the Financial Advice; and
- The barriers to modifying the actions taken to implement the Financial Advice.

CFP Board would weigh the Integration Factors in this case as follows:

- In managing the three portfolios and preparing a cash flow analysis, Cindy is addressing a component of Greg and Marcia's need for or desire to manage cash flow, achieve financial security, and preserve or increase wealth. Therefore, Cindy's Financial Advice will affect some relevant elements of Greg and Marcia's personal and financial circumstances. However, Cindy is not addressing Greg and Marcia's need or desire to develop goals, manage other significant assets (including their retirement accounts, which have been specifically excluded from the Scope of Engagement), manage other aspects of their cash flow (including their other assets, income, and expenses), manage liabilities, identify or manage risks other than those related to the management of the three portfolios, identify or manage the financial effect of health considerations, provide for educational needs, prepare for retirement, identify tax considerations, pursue philanthropic interests, or address estate and legacy matters. Therefore, this factor does not weigh in favor of a finding that Financial Planning is required.
- Cindy is providing Finance Advice to Greg and Marcia on three portfolios, but not on their other investment accounts, including their retirement accounts, which hold the majority of Greg and Marcia's Financial Assets. While the amount of assets that Cindy manages are significant, warranting cash flow planning and the services of a separate financial services professional, Greg and Marcia hold most of their assets in other accounts. Therefore, the portion and amount of Greg and Marcia's Financial Assets does not weigh in favor of a finding that Financial Planning is required.
- Greg and Marcia have asked Cindy to prepare cash flow plans for the next 24 months and to manage three accounts that contain assets that may be traded quickly at a relatively low cost. Therefore, Cindy's Financial Advice likely will not affect Greg and Marcia's personal and financial circumstances for a long time, which weighs in favor of a finding that Financial Planning is not required.

- Peter is managing all of Jan and Bobby's investment accounts (including their retirement accounts), preparing a long-term cash flow analysis, and preparing Jan and Bobby for retirement. Peter's Financial Advice is addressing several relevant elements of Jan and Bobby's personal and financial circumstances, including Jan and Bobby's need for or desire to develop retirement goals, manage cash flow in order to provide for their retirement needs, achieve financial security, preserve or increase wealth, and prepare for retirement. Therefore, this factor weighs in favor of a finding that financial planning is required.
- Peter's Financial Advice will address most of Jan's and Bobby's Financial Assets, including all of their investment accounts and estimates for their social security and pension income. Therefore, this factor weighs in favor of a finding that Financial Planning is required.
- Peter is providing Jan and Bobby with a long-term cash flow analysis that identifies their retirement dates and projects income and expenses until the age of 95. These long-term planning scenarios will affect Jan's and Bobby's personal and financial circumstances for a long time. This factor weighs in favor of a finding that Financial Planning is required.

- The effect on Greg and Marcia's overall exposure to risk is low. While Cindy's management of the three portfolios involves risk, these accounts do not hold Greg and Marcia's retirement accounts or the majority of Greg and Marcia's Financial Assets. Moreover, Cindy's cash flow planning is designed to enable Greg and Marcia to make additional investments within the next two years. If the cash flow does not materialize as expected, Greg and Marcia may adjust their investment plans or utilize other assets for those investments. This weighs against a finding that Financial Planning is required.
- The barriers to modifying the actions taken to implement the Financial Advice do not weigh in favor of a finding that Financial Planning is required because Cindy's investment allocations and cash flow plan may be modified quickly and at a low cost if the circumstances warrant such a change.

Based on the weighing of the Integration Factors, Cindy is not providing Financial Advice that requires Financial Planning. Therefore, Cindy is not responsible for providing Financial Planning, complying with the Practice Standards, providing the information in one or more written documents, or the additional information that the Duty to Provide Information to a Client requires when providing or required to provide Financial Planning. Nevertheless, Cindy is required to comply with the Fiduciary Duty that applies when providing Financial Advice to a Client as well as other Duties that apply at all times, such as the Duties of Integrity, Competence, and Diligence.

- The Financial Advice identifies when Jan and Bobby may be able to retire and meet their retirement goals and allocates investments in their accounts to support those retirement goals. While their overall exposure to risk would increase significantly if Jan and Bobby were to retire in accordance with this plan, or if Peter's allocations were inconsistent with Jan and Bobby's risk profile, neither of those risk factors are present. Therefore, this factor does not weigh for or against a finding that Financial Planning is required.
- The retirement cash flow plan and investment allocations may be changed easily and without great cost if the circumstances warrant such a change. As a result, the barriers to modifying the actions taken to implement the Financial Advice is not a factor that weighs in favor of a finding that Financial Planning is required.

Based on the weighing of the Integration Factors, Peter is providing Jan and Bobby with Financial Advice that requires Financial Planning. Most significantly, Peter's Financial Advice (a) affects most of Jan and Bobby's Financial Assets, including all their retirement accounts, (b) affects several relevant elements of Jan and Bobby's personal and financial circumstances, and (c) will affect Jan's and Bobby's personal and financial circumstances for a long time.

Based upon the facts as set forth above, in one circumstance the cash flow planning requires financial planning, and in the other circumstance the cash flow planning does not require financial planning. Some facts that are present in the circumstance where financial planning is required, but not the other circumstance, are that the CFP® professional (a) is providing Financial Advice to the Clients on all of their investment accounts, including their retirement plan, (b) is providing retirement planning, and (c) is managing all aspects of their cash flow, including income, expenses, and long-term projections through retirement. The combination of these additional facts is what necessitates the different conclusion.

Financial Planning Not Required

- Investment Advice and Short-Term Portfolio Cash Flow Illustraton
- Not providing Financial Advice on a majority of Financial Assets
- Provides Short-Term Cash Flow Portfolio Illustration
- No Cash Flow Planning on Income, Expense, or Retirement

Financial Planning Required

- Investment Advice, Comprehensive Cash Flow Planning, Retirement Planning
- Provides Financial Advice on all Investment Accounts, Including Retirement Plan
- Providing Long-Term Cash Flow Planning and Retirement Planning
- Managing all Aspects of Cash Flow, Including Income, Expenses, and Projections Through Retirement

A is not the best response because a weighing of the integration factors reveals that Cindy's Financial Advice does not require integration of relevant elements of Greg and Marcia's personal and financial circumstances in order to act in the Clients' best interests.

C is not the best response because it offers a reason that does not determine whether Cindy must provide Financial Planning. Where there is no explicit agreement regarding Financial Planning, the Practice Standards for the Financial Planning Process apply if the Client has a reasonable basis to believe the CFP® professional will provide Financial Planning or if the CFP® professional provides or agrees to provide Financial Advice that Requires Financial Planning.

D is not the best response because it presents only one of the five integration factors that CFP Board will weigh in determining whether Financial Advice requires Financial Planning.

Responses B and C are not the best responses because they offer reasons that do not determine whether Peter must provide Financial Planning. Instead, that determination depends on whether Peter's Financial Advice requires integration of relevant elements of Jan and Bobby's personal and/or financial circumstances in order to act in the Clients' best interests. A CFP® professional who does not explicitly state that he or she is providing Financial Planning still may be required to provide Financial Planning and comply with the duties that apply when Financial Planning is required.

Response D is not the best response because Jan and Bobby have no reasonable basis to believe that Financial Planning will be provided. For example, Peter's Engagement does not specify that Peter will be providing Financial Planning, Peter has not marketed Financial Planning to Jan and Bobby, and Jan and Bobby have not told Peter that they want Financial Planning.

Where, as with respect to Peter, Bobby and Jan, a CFP® professional provides or agrees to provide Financial Advice that requires integration of relevant elements of the Client's personal and/or financial circumstances in order to act in the Client's best interests, then the CFP® professional has additional duties to the Client, unless the Client does not agree to engage the CFP® professional to provide Financial Planning. If the Client does not agree to engage the CFP® professional to provide Financial Planning, then the CFP® professional must either:

a. Not enter into the Engagement;

b. Limit the Scope of Engagement to services that do not require application of the Practice Standards, and describe to the Client the services the Client requests that the CFP® professional will not be performing;

c. Provide the requested services after informing the Client how Financial Planning would benefit the Client and how the decision not to engage the CFP® professional to provide Financial Planning may limit the CFP® professional's Financial Advice, in which case the CFP® professional is not required to comply with the Practice Standards; or

d. Terminate the Engagement.

In this case, Jan and Bobby have asked Peter for long-term Financial Advice concerning their retirement. There is no indication that Jan and Bobby do not want to engage Peter to provide Financial Planning. Therefore, Peter is required to provide Financial Planning to Jan and Bobby.

For this reason, Peter has additional duties to Jan and Bobby. Peter is required to provide Financial Planning and to comply with the Practice Standards. In addition, under the Duty to Provide Information to a Client, most of the information that Peter may have provided to Jan and Bobby orally (or in writing) when providing Financial Advice now must be delivered to Jan and Bobby in writing, in one or more written documents. This includes the following information, which must be provided prior to or at the time of Engagement:

- A description of the services and products to be provided;
- How the Client pays for the products and services, and a description of the additional types of costs that the Client may incur;
- How the CFP® professional, the CFP® Professional's Firm's, and any Related Party are compensated for providing the products and services;
- The existence of any public discipline and bankruptcy, and the locations of the webpages of certain public websites that sets forth the CFP® professionals' public disciplinary history or any personal or business bankruptcy when the CFP® professional was a Control Person;
- Full disclosure of all Material Conflicts of Interest with the CFP® professional's Client that could affect the professional relationship, including sufficiently specific facts so that a reasonable Client would be able to understand the CFP professional's Material Conflicts of Interest and the business practices that give rise to the conflicts, and give informed consent to such conflicts or reject them (this information may be provided orally);

- A written notice at the time of the Engagement identifying policies regarding the protection, handling, and sharing of a client's non-public personal information that were adopted and implemented by the CFP® professional's Firm, and thereafter not less than annually except under certain enumerated circumstances.
- Any arrangement by which someone who is not the Client will compensate or provide some other material economic benefit to the CFP® professional, the CFP® Professional's Firm, or a Related Party for engaging or recommending the selection or retention of additional persons to provide financial or Professional Services for a Client; and
- Any other information about the CFP® professional or the CFP® Professionals' Firm that is Material to a Client's decision to engage or continue to engage the CFP® professional or the CFP® Professional's Firm.

Peter also must provide to Jan and Bobby the terms of the Engagement, including the Scope of Engagement and any limitations, the periods during which the services will be provided, and Jan and Bobby's responsibilities. Peter is responsible for implementing, monitoring, and updating the Financial Planning recommendation(s) unless specifically excluded from the Scope of Engagement.

Relevant Standards and Definitions: Application of Practice Standards (Standard B.3); Integration Factors (Standard B.4); Duty to Provide Information to a Client (Standard A.10).

B. FINANCIAL PLANNING AND APPLICATION OF THE PRACTICE STANDARDS FOR THE FINANCIAL PLANNING PROCESS, 6. NO CLIENT AGREEMENT TO ENGAGE FOR FINANCIAL PLANNING:

1: DUTIES WHEN A CLIENT DOES NOT AGREE TO ENGAGE FOR FINANCIAL PLANNING

Susan is dissatisfied with her investment manager's performance and costs and wants to work with a CFP® professional. She is referred to Blaine. After meeting with Susan and reviewing the information she provided, Blaine determines that Susan needs investment management and retirement planning. Financial Advice in these areas would affect almost all of Susan's Financial Assets. To provide Susan with investment management and retirement planning, Blaine also determines that he would need to perform cash flow and budgeting, estate planning, and insurance planning to act in Susan's best interests. Under those circumstances, Blaine would be agreeing to provide Financial Advice that Requires Financial Planning, and thus would be required to comply with the Practice Standards for the Financial Planning Process. However, Susan tells Blaine that she does not want to engage Blaine to provide Financial Planning. Blaine determines that if he were to limit the Scope of the Engagement to investment management, he would not be required to provide Financial Planning.

QUESTION:

Which is the best course of action?

RESPONSE OPTIONS:

A. **Blaine must do what Susan wants and provide investment management and retirement planning.**

B. **Blaine may Limit the Scope of the Engagement to investment management and inform Susan that he will not be performing retirement planning.**

C. **Blaine may provide investment management and retirement planning after making Susan sign a waiver indicating that Susan does not want Financial Planning.**

D. **Blaine must comply with the Practice Standards and provide Susan with Financial Planning.**

Best Response: B is the best response. This case involves the Application of the Practice Standards (Standard B.) and No Client Agreement to Engage in Financial Planning (Standard B.6).

The Practice Standards set forth the Financial Planning Process. A CFP® professional must comply with the Practice Standards (1) when the CFP® professional agrees to provide or provides (a) Financial Planning, or (b) Financial Advice that requires integration of relevant elements of the Client's personal and/ or financial circumstances in order to act in the Client's best interests ("Financial Advice that Requires Financial Planning"), or (2) the Client has a reasonable basis to believe the CFP® professional will provide or has provided Financial Planning.

The *Code and Standards* recognizes that a Client has the right to choose which services to receive from a CFP® professional. If a Client does not agree to engage the CFP® professional to provide Financial Planning, a CFP® professional must either: (1) Not enter into the Engagement; (2) Limit the Scope of the Engagement to services that do not require application of the Practice Standards, and describe to the Client the services the Client requests that the CFP® professional will not be performing; (3) Provide the requested services after informing the Client how Financial Planning would benefit the Client and how the decision not to engage the CFP® professional to provide Financial Planning may limit the CFP® professional's Financial Advice, in which case the CFP® professional is not required to comply with the Practice Standards; or (4) Terminate the Engagement (if applicable).

In this case Blaine has determined that Susan had requested Financial Advice that Requires Financial Planning, but Susan does not want to engage Blaine for Financial Planning. Therefore, there are four options available to Blaine. One of those options is to limit the Scope of the Engagement to services that do not require application of the Practice Standards and describe to the Client the services the Client requests that the CFP® professional will not be performing. Therefore, Blaine may Limit the Scope of the Engagement to investment management and inform Susan that he will not be performing retirement planning.

A and C are not the best responses because they do not describe Blaine's duty in this circumstance. While Blaine may provide the requested services without complying with the Practice Standards, he may do so only after informing Susan how Financial Planning would benefit Susan and how Susan's decision not to engage Blaine to provide Financial Planning may limit Blaine's Financial Advice. C also is not the best response because Blaine is not required to obtain a signed waiver from Susan.

D is not the best response because Blaine is not required to provide services for which Susan does not want to engage Blaine.

Relevant Standard: Standard B.6 (No Client Agreement to Engage in Financial Planning)

C. PRACTICE STANDARDS FOR THE FINANCIAL PLANNING PROCESS, 2. IDENTIFYING AND SELECTING GOALS:

1: INTERPRETING THE PRACTICE STANDARD FOR IDENTIFYING AND SELECTING GOALS

Tania (age 43) and Bonnie (age 45) engage with Scott, a CFP® professional, for Financial Planning. In accordance with step 1 of the Practice Standards for the Financial Planning Process, Scott obtains and analyzes the qualitative and quantitative information necessary to fulfill the Scope of the Engagement and assess Tania and Bonnie's personal and financial circumstances. Tania and Bonnie rent an apartment, have modest savings in low-yielding savings accounts ($50,000) and retirement assets ($100,000), are cash flow positive with moderate expenses, and are carrying high interest credit card debt ($15,000). For the last 11 years, Tania and Bonnie have invested for retirement in conservative Financial Assets, with most of their retirement assets allocated to fixed income and cash equivalent investments. They sold their more growth-oriented portfolio at market lows.

Tania and Bonnie indicate their two primary goals are (1) to save the funds that they will need in approximately 5 years to make a 20% down payment ($70,000) on the purchase of a $350,000 small beach condo on the South Carolina coast that they will use for vacations while working and then in retirement, and (2) to retire at age 65 with a net retirement income of $75,000 in today's dollars.

QUESTION:

What actions must Scott take to address Tania and Bonnie's goals, in accordance with step 2 of the Practice Standards for the Financial Planning Process?

RESPONSE OPTIONS:

A. **Scott must assist Tania and Bonnie in planning to accomplishing their stated goals, without considering how they may impact other potential goals.**

B. **Scott must help Tania and Bonnie identify their goals, and the impact that a particular goal may have on other goals. Scott also must help Tania and Bonnie select and prioritize goals.**

C. **Scott must provide Tania and Bonnie with Financial Advice concerning the goals to include in their financial plan without regard to their expressed goals.**

Best Response: Response B is the best response. This case involves the Practice Standards for the Financial Planning Process, Identifying and Selecting Goals (Standard C.2.).

The second step of the Financial Planning Process involves identifying and selecting goals. A CFP® professional must discuss with the Client the CFP® professional's assessment of the Client's financial and personal circumstances, and help the Client identify goals, noting the effect that selecting a particular goal may have on other goals. In helping the Client identify goals, the CFP® professional must discuss with the Client, and apply, reasonable assumptions and estimates. These may include life expectancy, inflation rates, tax rates, investment returns, and other Material assumptions and estimates. A CFP® professional also must help the Client select and prioritize goals. The CFP® professional must discuss with the Client any goals the Client has selected that the CFP® professional believes are not realistic.

Here Scott must discuss with Tania and Bonnie his assessment of their financial and personal circumstances, including their high interest credit card debt, current investment allocation, and stated goals. Scott also must discuss with Tania and Bonnie the assumptions and estimates that he is making, such as their life expectancy, current and future tax and inflation rates, and anticipated investment returns and expenses. Scott must use this information to help Tania and Bonnie identify other potential goals, including how each goal may affect the other goals. Here, for example, if Tania and Bonnie prioritize the goal of saving for a vacation home down payment and making ongoing mortgage payments and maintenance costs, then that goal may affect the funds that will be available for retirement at age 65, and such other potential goals that they may identify.

Response A is not the best response because the goals that a Client identifies when a CFP® professional is assessing the Client's financial and personal circumstances during the first step of the Financial Planning process may be different from the goals that the Client selects during the second step of Financial Planning process. A CFP® professional must help the Client identify potential goals and then select and prioritize the Financial Planning goals, taking into account the effect that selecting a particular goal may have on other goals. This may require the CFP® professional to discuss goals that the Client has selected that the CFP® professional believes are not realistic.

Response C is not the best response because the goals that a Client identifies when a CFP® professional is assessing the Client's financial and personal circumstances during the first step of the Financial Planning process are a component of the qualitative information that a CFP® professional must consider in helping the Client select and prioritize goals during the second step of Financial Planning process.

Relevant Standards and Definitions: Practice Standards for the Financial Planning Process, Identifying and Selecting Goals (Standard C.2.).

1. INTERPRETING THE PRACTICE STANDARD FOR ANALYZING THE CLIENT'S CURRENT COURSE OF ACTION

Joe, a CFP® professional, meets with Martha and Dan Miller, who are 32 years old and have a newborn daughter. Joe learns the following about the Millers:

Age, Income, Dependents

- Martha and Dan have annual salaries of $120,000 and $110,000, respectively.

Savings, Assets, Liabilities, Education and Retirement Accounts

- The Millers contribute $12,600 annually to a savings account that has a balance of $70,000, which includes $30,000 for emergencies, $30,000 targeted for the purchase of a lake cabin, and $10,000 earmarked for college savings.
- They have a taxable investment account with a $10,000 value.
- The allocation in their accounts is 50% equities and 50% fixed income.

Expenses, Cash Flow, Liquidity

- Marth and Dan have $34,500 in unallocated cash flow each year.

Insurance, Employee Benefits

- Martha and Dan contribute 10% of their salaries (with a 6% employer match) to their 401(k) plan accounts, which collectively have a value of $150,000.
- They have employer-provided life insurance coverage that is equal to two times their salaries.

Estate Plans

- Marth and Dan's home value is $300,000 with $60,000 of equity.
- They have not created any estate planning documents.

Miller's Current Annual Personal Balance Sheet and Cash Flow Report

Assets		**Liabilities**	
Taxable Investment Account	$10,000	Mortgage Debt	$240,000
Current Market Home Value	$300,000		
Low-Yield Savings Account	$70,000		
401(k) - Martha	$80,000		
401(k) - Dan	$70,000		
Net Worth			
Total Assets	$530,000	Total Liabilities	$240,000
Net Worth	$290,000		

Income		Expenses	
Martha's Income	$120,000	Fixed Expenses	
Dan's Income	$110,000	Income Taxes	$48,000
		Mortgage	$15,000
		Health and Other Insurances	$15,000
		Utilities and Household Maintenance	$11,900
		Food and Clothing	$10,000
		Transportation	$10,000
		Fixed Expenses	
		Vacations and Travel	$15,000
		Recreation and Entertainment	$20,000
		Gifts and Charitable Constributions	$15,000
		Low-Yield Savings Account Contributions	$12,600
		401(k) Contributions	$23,000
Cash Flow			
Total Income	$230,000	Total Expenses	$195,500
Unallocated Cash Flow	$34,500		

Joe helps Martha and Dan identify and select five goals:

1. Accumulate adequate retirement assets to retire at age 67 and live a comfortable life during retirement.
2. Acquire a cabin at the lake within approximately six years.
3. Have adequate insurance coverage.
4. Create an estate plan.
5. Accumulate assets to cover their daughter's elite private university costs.

QUESTION:

In analyzing the current course of action under Step 3 of the Financial Planning Process, what else must Joe do?

RESPONSE OPTIONS:

A. Determine whether the interest rate on Martha and Dan's mortgage is higher than the existing market rate, and if so, recommend that they refinance their mortgage.

B. Evaluate their investment allocations against their risk tolerance.

C. Develop recommendations based upon the selected goals.

D. Analyze their savings rate, liabilities, investment allocation, and retirement projections to determine whether the Millers are maximizing the potential to meet their goals.

Best Response: Response D is the best response. This case study involves Step 3 of the Financial Planning Practice Standards (Standard C.3.)

Step 3 of the Financial Planning Practice Standards has two components: (1) analyzing the Client's current course of action and (2) analyzing potential alternative courses of action. In fulfilling the first component, a CFP® professional must analyze the Client's current course of action, including the material advantages and disadvantages of the current course and whether the current course maximizes the potential for meeting the Client's goals.

Response A-B are not the best response because each present only one material advantage or disadvantage of their current course of action. There is additional analysis that Joe must perform to satisfy this step of the Financial Planning process. Response A also addresses a component of Step 4 of the Financial Planning process; namely, the development of a recommendation. A CFP® professional, however, does not develop recommendations until Step 4 of the Financial Planning process. Before developing recommendations, a CFP® professional must analyze potential alternative courses of action.

Response C is not the best response. As discussed in the analysis of Responses A and B, a CFP® professional does not develop recommendations until Step 4 of the Financial Planning process.

Response D is the best response because it presents a more comprehensive list of the additional analysis that Joe must perform than that which is presented in Responses A and B. In analyzing their savings rate, liabilities, investment allocation, and retirement projections, Joe would need to consider the material advantages and disadvantages to determine whether the Millers are maximizing the potential to meet their goals. After performing this analysis, Joe determines as follows:

Joe identifies advantages of their current course of action. The Millers:

☐ Have a cash reserve in the event of an emergency.	☐ Do not have significant liabilities and have no credit card debt.
☐ Are contributing approximately 15.5% of their gross income annually to a savings account and to their 401(k) plan accounts (does not include employer match).	☐ Have some insurance coverage (Martha's short- and long-term disability policies though her employer, Dan's short-term disability through his employer, and Martha and Dan's life insurance policies through their employers.
☐ Are building equity in their home.	☐ Have established an excellent credit rating.

Joe identifies disadvantages of their current course of action and potential opportunities. The Millers:

☐ Should be allocating their assets in alignment with their risk tolerance.	☐ Have an interest rate on their existing mortgage that is high compared to current market rates.
☐ Have mutual fund investments that have high costs and are not tax-efficient.	☐ Are using a low-interest savings account with taxable interest for college savings.
☐ Do not have adequate insurance coverage (Dan and Martha lack appropriate liability and life insurance coverage and Dan lacks long-term disability coverage).	☐ Have no estate planning documents and have outdated beneficiary designations on their retirement accounts and life insurance policies.
☐ Are not planning for the additional costs of owning a second home, such as property taxes, insurance, and maintenance costs.	

Joe's analysis of the Millers' current course shows a low likelihood of meeting all their targeted goals. Joe begins to analyze potential alternative courses of action, each of which helps maximize the potential for the Millers to meet their goals and integrates the relevant elements of the Millers' personal and financial circumstances.

Relevant Standards and Definitions: Practice Standards for the Financial Planning Process, Step 3: Analyzing the Client's Current Course of Action and Potential Alternative Course(s) of Action (Standard C.3.)

1: CONSIDERING THE ASSUMPTIONS AND ESTIMATES USED TO DEVELOP THE RECOMMENDATION

EDUCATIONAL OBJECTIVES:

- Estimate the amount of an appropriate emergency fund based on the Client's income, expenses, risks and other financial and personal circumstances.
- Address the sensitivity of the financial plan to changes in key assumptions, including how future uncertainties may impact the feasibility of achieving a Client's financial goals, such as potential increases in expenses or decreases in income.
- Mitigate risks by discussing trade-offs or adjustments to a Client's goals.

SCENARIO:

Hank, a CFP® professional, meets with new client Cindy, who has engaged Hank for financial planning. Cindy is a 40-year-old widow with a 10-year-old daughter, Susie. During their initial meeting, Cindy tells Hank she would like to move to a bigger home, retire by age 67 and pay for her daughter's college tuition.

Hank engaged in additional communications with Cindy to understand her personal and financial circumstances, obtaining both qualitative and quantitative information:

Assets		Liabilities	
Checking and savings accounts	$70,000	Credit card	$0
401(k)	$250,000	Mortgage loan	$175,000
Car (paid in full)	$27,000	Other loans (none)	$0
Home	$250,000		
Child's education fund	$2,000		
Total Assets	$599,000	**Total Liabilities**	$175,000
Net Worth	$424,000		

Income (yearly)		Expenses (yearly)	
Salary	$125,000	Mortgage, home Insurance and property taxes	$14,000
Bonus	$25,000	Home maintenance and utilities	$9,200
Annual interest	$2,500	Other non-discretionary expenses (including income taxes)	$68,000
		401(k) Contributions (6% contribution rate with 3% match)	$7,500
		Discretionary expenses (including Vacations and Entertainment)	$10,300
Total Income	$152,500	Total Expenses/Investments	$109,000
		Annual Cash Savings Contribution (including house fund)	$43,500

Cindy currently lives in a townhome. She desires a bigger house with a large yard so that her daughter may have extra space. She is considering making an offer on a home with a current market value of $500,000. She has been saving for several years and wants to make a 20% down payment to avoid paying for private mortgage insurance. The new mortgage payment (including escrow for homeowner's insurance and taxes, principal and interest) for a 30-year mortgage would be approximately $3,400 monthly at her approved 6.5% mortgage interest rate ($40,800 annually). She also anticipates that her annual utilities and home maintenance expenses would increase to $11,200.

Cindy has saved $2,000 toward her daughter's college education and would like to provide for the full cost of an in-state public university. Cindy also would like to retire in 27 years at age 67.

After the discussion, and based upon the estimates and assumptions above, Hank developed these three major financial planning recommendations.

1. Cindy's current house has a market value of $250,000, a mortgage balance of $175,000 and equity of $75,000, with an estimated $25,000 in total closing costs for the sale of the prior home and purchase of the new home. This leaves approximately $50,000 in net equity that she may use to make a down payment. Comparable townhomes have sold quickly and at a steady price. Hank concurs that Cindy can sell her current home and make an offer on the home she is considering. He recommends that she make a $100,000 down payment so that she may avoid paying additional mortgage insurance costs. Hank recommends that Cindy use $50,000 from her savings account toward the down payment of the new home, leaving $20,000 in her savings account.
2. To retire at age 67, Hank recommends that Cindy increase her current 401(k) plan contributions to $10,500 annually, a $3,000 increase from her current annual contributions. This would enable Cindy to retire with a similar standard of living at her desired retirement age.
3. Cindy has eight years until her daughter is expected to go to college. Currently, the cost of tuition, room and board at the state university Cindy's daughter aspires to attend is $27,000 per year. Hank makes some calculations that consider likely inflation in the cost of college expenses. He determines that to pay for her daughter's college tuition, Cindy must save $11,000 per year. Cindy previously opened a 529 account but has contributed only $2,000 to the account. Hank recommends that Cindy begin immediately making monthly contributions to the 529 plan, in the amount of $917, to make progress toward this goal.

Using Cindy's assumptions, Hank calculates the annual increases in Cindy's expenses and contributions to retirement and college savings as follows:

Cash Flow (out)	Current	After implementing recommendations	Increase
Mortgage	$14,000	$40,800	$26,800
Utilities and Maintenance	$9,200	$11,200	$2,000
Retirement	$7,500	$10,500	$3,000
College Savings	$0	$11,000	$11,000
		Total increased expenses and investments	$42,800

Purchasing the house with 20% down and implementing the other recommendations will decrease Cindy's cash flow by $42,800, which is roughly equivalent to Cindy's current annual cash savings rate of $42,500.

Hank presents the three recommendations to Cindy. Thereafter, Cindy begins to implement the plan, including by contracting to buy the house.

QUESTION:

Did Hank satisfy his duties when developing the Financial Planning recommendations? If not, what should Hank have done differently?

BRIEF RESPONSE:

No. Hank did not:

- Estimate an adequate emergency fund to account for unanticipated expenses or loss of income;
- Take uncertainty into account when considering assumptions and estimates while developing the Financial Planning recommendation.

DISCUSSION:

This case study involves the Practice Standards for the Financial Planning Process, Developing the Financial Planning Recommendation(s) (Standard C.4.)

Standard B.3. of the *Code and Standards* provides that a CFP® professional must comply with the Practice Standards for the Financial Planning Process when a CFP® professional agrees to provide, or provides, Financial Planning. Article C sets forth the Practice Standards for the Financial Planning Process, which includes the seven steps set forth below. This case study focuses on Step 4 of the Financial Planning Practice Standards, the text of which is provided in full below. You may review the other Practice Standards by clicking on the link provided:

1. Understanding the Client's Personal and Financial Circumstances
2. Identifying and Selecting Goals
3. Analyzing the Client's Current Course of Action and Potential Alternative Course(s) of Action
4. Developing the Financial Planning Recommendation(s)

   From the potential courses of action, a CFP® professional must select one or more recommendations designed to maximize the potential for meeting the Client's goals. The recommendation may be to continue the Client's current course of action. For each recommendation selected, the CFP® professional must consider the following :

   a. The assumptions and estimates used to develop the recommendation;

   b. The basis for making the recommendation, including how the recommendation is designed to maximize the potential to meet the Client's goals, the anticipated material effects of the recommendation on the Client's financial and personal circumstances and how the recommendation integrates relevant elements of the Client's personal and financial circumstances;

   c. The timing and priority of the recommendation; and

   d. Whether the recommendation is independent or must be implemented with another recommendation.
5. Presenting the Financial Planning Recommendation(s)
6. Implementing the Financial Planning Recommendation(s)
7. Monitoring Progress and Updating

In this case study, the CFP® professional, Hank, was engaged for Financial Planning. Hank, therefore, was required to comply with the Practice Standards. However, Hank did not develop a Financial Planning recommendation based on reasonable assumptions and estimates. Assumptions and estimates are approximations. A CFP® professional must plan for results that deviate from the assumptions and estimates, estimate an appropriate amount of emergency savings and discuss uncertainties and tradeoffs with the Client.

Estimating an adequate emergency fund

Hank did not estimate an adequate emergency fund when he recommended that Cindy leave only $20,000 in her savings account. Emergency funds (cash and cash equivalents) ordinarily should be sufficient to cover a reasonable estimate of the likely period that the Client would not be earning income, whether because of unemployment, medical leave or other circumstances. The lack of a sufficient emergency fund can cause a Client undue stress in the face of unexpected increases in expenses or decreases in income and could derail their financial plan.

Hank should have calculated the amount of emergency funds required, which would reasonably have been between three to six months of nondiscretionary expenses. The increase in mortgage and utilities increased Cindy's non-discretionary expenses from $92,200 to $121,000 annually. Cindy would have required $30,250 in cash for her to have sufficient funds to pay for at least three months of non-discretionary expenses, or $60,500 in cash for her to have sufficient funds to pay for six months of non-discretionary expenses.

Taking account of uncertainty when considering assumptions and estimates in a financial plan

Hank also needed to make clear to Cindy the risks of increasing her nondiscretionary expenses and depleting her cash, in particular how it would negatively affect her ability to handle unexpected expenses. That way Cindy could accept that risk or explore tradeoffs or adjustments to her goals.

Having a discussion with Cindy about the priorities of her goals, as required in Step 2 of the Practice Standards, would have helped Hank discuss these risks and potential tradeoffs and incorporate them into his recommendations. For example, Hank might have discussed whether Cindy:

- Would be willing to make a smaller down payment and increase her monthly mortgage and insurance costs to have more emergency funds available for unexpected expenses or loss of income.
- Would be willing to adjust other goals, such as retiring later or paying for less of Susie's tuition, should Cindy incur unanticipated expenses or lose income.
- Might purchase a less expensive home or wait to purchase a home until she has saved enough for both a down payment and emergency funds.
- Should identify other sources of emergency funds, such as a home equity loan that she might have available to use through a line of credit.

Relevant Standards and Definitions: Practice Standards for the Financial Planning Process, Step 4: Developing the Financial Planning Recommendation(s) (Standard C.4.).

1: INTERPRETING THE PRACTICE STANDARD FOR IMPLEMENTING THE FINANCIAL PLANNING RECOMMENDATION(S)

Rick, a CFP® professional, has presented his Financial Planning recommendations to his Clients Mike and Sofia. He previously informed the Clients of his Material Conflicts of Interest, explained how he will manage the conflicts, and obtained the Clients' informed consent. His Financial Planning recommendations include obtaining additional term life insurance and reallocating their retirement savings to investment products that are designed to maximize their potential to meet long-term goals. Rick explains to his Clients that he implements recommendations relating to investment products, for which he charges an ongoing management fee. For the implementation of other recommendations, Rick communicates with his Clients their responsibility and the responsibilities of any third-party.

QUESTION:

What should Rick do next to comply with the Practice Standards for the Financial Planning Process?

RESPONSE OPTIONS:

A. **Instruct his clients to complete an online account application to begin implementing the recommendations.**

B. **Provide his clients with the historical track record of his investment recommendations to establish that he is competent to recommend investment products.**

C. **Discuss with his clients the basis for selecting an action, product, or service, and the timing and priority of implementing the action, product, or service.**

D. **Recommend an insurance agent from a referral network that provides Rick with referral compensation.**

Best Response: Response C is the best response. This case involves the Practices Standards for the Financial Planning Process, Implementing the Financial Planning Recommendations (Standard C.6).

The Practice Standards provide, in step 6, that a CFP® professional must establish with the Client whether the CFP® professional has implementation responsibilities. When the CFP® professional has implementation responsibilities, the CFP® professional must communicate to the Client the recommendation(s) being implemented and the responsibilities of the CFP® professional, the Client, and any third-party with respect to implementation.

A CFP® professional who has implementation responsibilities must identify and analyze actions, products, and services, designed to implement the recommendations. The CFP® professional must consider the basis for each selection, which must include:

i. How the action, product, or service is designed to implement the CFP® professional's recommendation; and

ii. The advantages and disadvantages of the action, product, or service relative to reasonably available alternatives.

A CFP® professional who has implementation responsibilities must recommend one or more actions, products, and services to the Client. The CFP® professional must discuss with the Client the basis for selecting an action, product, or service, the timing and priority of implementing the action, product, or service, and disclose and manage any Material Conflicts of Interest concerning the action, product, or service.

A CFP® professional who has implementation responsibilities must help the Client select and implement the actions, products, or services. The CFP® professional must discuss with the Client any Client selection that deviates from the actions, products, and services the CFP® professional recommended.

In this case, Rick has already disclosed his Material Conflicts of Interest and how he will manage those conflicts. Therefore, the next step is for Rick to discuss with his Clients the basis for selecting an action, product, or service, and the timing and priority of implementing the action, product, or service.

Response A is not the best response because Rick must first discuss with his Clients the basis for selecting an action, product, or service, and the timing and priority of implementing the action, product, or service. After those discussions, Rick may instruct the Clients to compete an online account application to begin implementing the recommendations.

Response B is not the best response because the Practice Standards does not require providing to a Client the CFP® professional's track record for investment recommendations. In fact, in isolation only showing past performance may be misleading.

Response D is not the best response because Rick is not required to provide the Clients with an insurance agent recommendation. However, when providing a recommendation, Rick must have a reasonable basis for the recommendation based on the agent's reputation, experience, and qualifications. Rick must also disclose to the Clients any arrangement by which Rick would receive any additional compensation. Rick should also check his firm's policies and procedures which could require that Rick provide to the Clients the names of at least several qualified insurance agents.

Relevant Standards and Definitions: Implementing the Financial Planning Recommendations (Standard C.6.).

1: INTERPRETING THE PRACTICE STANDARD FOR MONITORING PROGRESS

Sally and George are 50 years old and have a goal of retiring in 16 years. They engaged Jim, a CFP® professional, to provide Financial Planning, including with respect to their intended retirement. After understanding their financial and personal circumstances, identifying and selecting goals, and analyzing their current course of action and potential alternative courses of action, Jim develops and then presents the Financial Planning recommendations. Jim determined that it would be in their best interests to reallocate their retirement investments with broader diversification to the equity markets. In addition, while Sally and George had accumulated significant savings for retirement, Jim determined that they needed to increase their annual savings contribution and optimize their asset allocation to maximize the potential of retiring in 16 years.

Jim communicates and fulfills his implementation responsibilities and establishes that he will have full monitoring progress and updating responsibilities. Jim also informs Sally and George of their responsibility to inform him of any Material changes to their information. Sally and George agree to pay Jim an annual fee.

QUESTION:

How often must Jim monitor Sally and George's progress?

RESPONSE OPTIONS:

A. **Sally and George are responsible for determining how frequently Jim must monitor progress towards their goal.**

B. **Jim must monitor Sally and George's progress towards their goal on at least an annual basis.**

C. **The Practice Standards for the Financial Planning Process indicate that a CFP® professional must analyze progress toward achieving a Client's goals at appropriate intervals.**

Best Response: Response C is the best response. This case involves the Monitoring Progress and Updating standard of the Practices Standards for the Financial Planning Process (Standard C.7.).

The Practice Standards provide that a CFP® professional must establish with the Client whether the CFP® professional has monitoring and updating responsibilities. When the CFP® professional has responsibilities for monitoring and updating, the CFP® professional must communicate to the Client:

i. Which actions, products, and services are and are not subject to the CFP® professional's monitoring responsibility;

ii. How and when the CFP® professional will monitor the actions, products, and services;

iii. The Client's responsibility to inform the CFP® professional of any Material changes to the Client's qualitative and quantitative information;

iv. The CFP® professional's responsibility to update the Financial Planning recommendations; and

v. How and when the CFP® professional will update the Financial Planning recommendations.

The Practice Standards further provide that a CFP® professional who has monitoring responsibilities must analyze, at appropriate intervals, the progress toward achieving the Client's goals. The CFP® professional must review with the Client the results of the CFP® professional's analysis. A CFP® professional who has monitoring responsibility also must collaborate with the Client in an attempt to obtain current qualitative and quantitative information concerning the Client's personal and financial circumstances. Where circumstances warrant changes to the Client's goals, recommendations, or selections of actions, products or services, the CFP® professional must update as appropriate in accordance with the Practice Standards. A CFP® professional also must comply with applicable federal and state laws, rules, and regulations that apply to monitoring services.

In this case Jim needs to determine what interval is appropriate for analyzing Sally and George's progress towards retirement. In making that determination, he might consider, among other factors, Sally and George's demonstrated ability to stick to the plan, the consequences to Sally and George of deviating from the plan, and the probability that Sally and George will achieve their goals, taking into account their investment portfolio, retirement date, life expectancy, and expenses. Jim may need to reevaluate the monitoring interval should the market experience significant volatility or if Sally and George experience other material qualitative or quantitative changes to their financial or personal circumstances.

Response A is not the best response because a CFP® professional must communicate to the Client how and when the CFP® professional will monitor progress toward the Client's goals.

Response B is not the best response because monitoring progress on an annual basis may not be an appropriate interval for some Clients.

Relevant Standards and Definitions: Monitoring Progress and Updating standard of the Practices Standards for the Financial Planning Process (Standard C.7.).

2: INTERPRETING THE PRACTICE STANDARD FOR UPDATING THE FINANCIAL PLANNING RRECOMMENDATIONS

Kayla, a CFP® professional at a small registered investment adviser (RIA) firm, provides financial planning (including ongoing monitoring and updating services) to Isis, a new client, who has a moderate risk tolerance. On June 15 of Year 1, Kayla met with Isis. Isis wants to retire in twelve years and buy a new house. Kayla evaluates Isis's situation and explains that if she wants to retire in twelve years and buy a new home, then under her present standard of living she needs to increase her ongoing savings to make up for some bad investment choices in the past, invest in a more aggressive manner, or retire a few years later. Currently, the equity markets are performing exceptionally well, and Isis has become comfortable with investing in them again. Isis agrees with Kayla's recommendation of increasing her exposure to risk in her investment allocation.

On January 15 of Year 2, Isis tells Kayla that she wants to retire in only seven years, five years earlier than originally planned. Kayla views the equity markets and economy as being exceptionally strong and does not recommend making any changes until they meet at their regular meeting in August.

In February of Year 2, the equity markets experience a deep decline and Isis's portfolio suffers a significant loss.

QUESTION:

In accordance with the Practice Standards, what steps should Kayla have taken in monitoring and updating Isis's plan? Choose the most complete response.

RESPONSE OPTIONS:

A. **Kayla should have predicted that a steep decline in the equity markets was coming soon.**

B. **Kayla should have discussed with Isis in January whether the modification of her retirement goal warranted any updates to the Financial Planning recommendations.**

C. **Isis is responsible for telling Kayla to modify her portfolio to meet the change in retirement date.**

D. **Kayla is responsible for monthly monitoring per Standard C.7 of the *Code and Standards*.**

Best Response: Response B is the best response. This case involves the Practice Standards for the Financial Planning Process, Monitoring Progress and Updating (Standard C.7).

A CFP® professional must establish with the Client whether the CFP® professional has monitoring and updating responsibilities. When the CFP® professional has responsibilities for monitoring and updating, the CFP® professional must communicate to the Client:

i. Which actions, products, and services are and are not subject to the CFP® professional's monitoring responsibility;

ii. How and when the CFP® professional will monitor the actions, products, and services;

iii. The Client's responsibility to inform the CFP® professional of any Material changes to the Client's qualitative and quantitative information;

iv. The CFP® professional's responsibility to update the Financial Planning recommendations; and

v. How and when the CFP® professional will update the Financial Planning recommendations.

A CFP® professional who has monitoring responsibilities must analyze, at appropriate intervals, the progress toward achieving the Client's goals. The CFP® professional must review with the Client the results of the CFP® professional's analysis. A CFP® professional who has monitoring responsibility must also collaborate with the Client in an attempt to obtain current qualitative and quantitative information concerning the Client's personal and financial circumstances. Where a CFP® professional has updating responsibility, the CFP® professional must determine whether circumstances warrant changes to the Client's goals, recommendations, or selection of actions, or products or services. Information is Material when a reasonable Client or prospective Client would consider the information important in making a decision.

Isis informed Kayla of a Material change in her circumstances when she modified her retirement timeline. Therefore, when Isis notified Kayla of the accelerated retirement date, Kayla should have re-run her projections in Isis's financial plan and discussed with Isis any changes to the financial planning recommendations. For example, the accelerated retirement timeline will effect Isis's income needs in retirement, requiring a larger pool of assets to distribute from given the earlier termination of her employment income. Kayla should have reevaluated Isis's portfolio and evaluated the probability of success given the five additional years of retirement. This may have changed Kayla's financial planning recommendations. Kayla might have advised Isis to reduce expenses, increase pre-retirement savings, or possibly develop a phased retirement approach. Laruen may have needed to advise Isis that she is unable to retire early given her existing portfolio, income level, and risk profile.

Response A is not the best response because a CFP® professional would not be able to predict a steep decline in the market.

Response C is not the best response because Isis is not responsible for directing Kayla to update her portfolio.

Response D is not the best response because the Practice Standards do not require monthly monitoring. The Practice Standards require a CFP® professional who has monitoring responsibilities to analyze, at appropriate intervals, the progress toward achieving the Client's goals. The CFP® professional must review with the Client the results of the CFP® professional's analysis.

Relevant Standards and Definitions: Monitoring Progress and Updating (Standard C.7.) and Material (Glossary).

1: INFORMATION THAT CFP BOARD REQUIRES (AND DOES NOT REQUIRE) A CFP® PROFESSIONAL TO REPORT TO CFP BOARD

Bob Stewart, a CFP® professional, is working late at night when he receives news that Shirley Taylor, a long-time client, filed a complaint (the "Customer Complaint") with his firm, alleging that Bob's recommendations were not in the client's best interest. Ms. Taylor alleges losses greater than $150,000. Bob leaves work and begins his long commute home. Along the way, Bob's car veers into another lane and collides with a police cruiser. Luckily, no one was hurt, but Bob receives a ticket for reckless driving (the "Traffic Ticket") and will have to attend a driver education course. Two months later, Ms. Taylor files a FINRA arbitration (the "FINRA Arbitration") against Bob's firm, but not Bob, that raises the same allegations as set forth in the Customer Complaint. Later that day, Bob's firm terminates his employment (the "Termination") because the firm determined that Bob sold products to another client that were not in the client's best interests. When Bob arrives home, he opens the mail and finds a notice that the IRS imposed a tax lien on his personal residence (the "Tax Lien") because of Bob's failure to pay federal taxes in the amount of $5,000.

QUESTION

Which of these events does the *Code of Ethics and Standards of Conduct* require Bob to report to CFP Board within 30 days?

RESPONSE OPTIONS:

A. Customer Complaint

B. Traffic Ticket

C. FINRA Arbitration

D. Termination

E. Tax Lien

Best Response: Responses A, C, D, and E are all correct responses. This case involves the Duties Owed to CFP Board and Reporting. (Standard E.3.).

As set forth in Standard E.3 of CFP Board's *Code and Standards*, a CFP® professional must provide written notice to CFP Board within thirty (30) calendar days after the CFP® professional, or an entity over which the CFP® professional was a Control Person, has:

a. Been charged with, convicted of, or admitted into a program that defers or withholds the entry of a judgment or conviction for, a Felony or Relevant Misdemeanor;

b. Been named as a subject of, or whose conduct is mentioned adversely in, a Regulatory Investigation or Regulatory Action alleging failure to comply with the laws, rules, or regulations governing Professional Services;

c. Had conduct mentioned adversely in a Finding in a Regulatory Action involving failure to comply with the laws, rules, or regulations governing Professional Services (except a Regulatory Action involving a Minor Rule Violation in a Regulatory Action brought by a self-regulatory organization);

d. Had conduct mentioned adversely in a Civil Action alleging failure to comply with the laws, rules, or regulations governing Professional Services;

e. Become aware of an adverse arbitration award or civil judgment, or a settlement agreement, in a Civil Action alleging failure to comply with the laws, rules, or regulations governing Professional Services, where the conduct of the CFP® professional, or an entity over which the CFP® professional was a Control Person, was mentioned adversely, other than a settlement for an amount less than $15,000;

f. Had conduct mentioned adversely in a Civil Action alleging fraud, theft, misrepresentation, or other dishonest conduct;

g. Been the subject of a Finding of fraud, theft, misrepresentation, or other dishonest conduct in a Regulatory Action or Civil Action;

h. Become aware of an adverse arbitration award or civil judgment, or a settlement agreement in a Civil Action alleging fraud, theft, misrepresentation, or other dishonest conduct, where the conduct of the CFP® professional, or an entity over which the CFP® professional was a Control Person, was mentioned adversely;

i. Had a professional license, certification, or membership suspended, revoked, or materially restricted because of a violation of rules or standards of conduct;

j. Been terminated for cause from employment or permitted to resign in lieu of termination when the cause of the termination or resignation involved allegations of dishonesty, unethical conduct, or compliance failures;

k. Been named as the subject of, or been identified as the broker/adviser of record in, any written, customer-initiated complaint that alleged the CFP® professional was involved in:

   i. Forgery, theft, misappropriation, or conversion of Financial Assets;

   ii. Sales practice violations and contained a claim for compensation of $5,000 or more; or

   iii. Sales practice violations and settled for an amount of $15,000 or more.

l. Filed for or been the subject of a personal bankruptcy or business bankruptcy where the CFP® professional was a Control Person;

m. Received notice of a federal tax lien on property owned by the CFP® professional; or

n. Failed to satisfy a non-federal tax lien, judgment lien, or civil judgment within one year of its date of entry, unless payment arrangements have been agreed upon by all parties.

A CFP® professional must provide written notice to CFP Board within thirty (30) calendar days of both the initiation and conclusion of the Reportable Matter and include a narrative statement that completely and accurately describes the material facts and the outcome or status of the Reportable Matter.

Response (A) is a correct response. Bob must report the Customer Complaint because the client alleged that Bob made recommendations that were not in the client's best interests. See Standard E.3(k).

Response (B) is not a correct response. The Traffic Ticket does not fall within any of the categories of information that Standard E.3. of the *Code and Standards* requires Bob to report to CFP Board. The Traffic Ticket is not a misdemeanor or felony. The Traffic Ticket also is not a civil judgment alleging failure to comply with the laws, rules, or regulations governing Professional Services.

Response (C) is a correct response. Although the FINRA Arbitration involves the same customer who filed the Customer Complaint that Bob reported to CFP Board, the FINRA arbitration is a separate Reportable Matter. While Bob is not a respondent in the FINRA Arbitration, Bob has a duty to report the FINRA arbitration because his alleged conduct, the recommendations that allegedly were not in the client's best interest, was adversely mentioned in the FINRA Arbitration statement of claim. See Standard (E.3(e).

Response (D) is a correct response. Bob must report the Termination because the firm terminated Bob for making recommendations that were not in the best interests of several clients. The cause of the Termination was allegations of unethical conduct and compliance failures. See Standard E.3(j).

Response (E) is a correct response. Bob must report the Tax Lien to CFP Board because it is a federal tax lien on property owned by Bob. See Standard E.3(m).

Relevant Standards and Definitions: Duties Owed to CFP Board - Reporting. (Standard E.3.)

CFP BOARD

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