



April 22, 2020

Certified Financial Planner Board of Standards, Inc.  
1425 K Street NW #800  
Washington, DC 20005

***Re: Requests for Comment on Revised Proposed Procedural Rules***

Dear Sir or Madam:

The National Association of Personal Financial Advisors (“NAPFA”) is pleased to submit this letter in response to the request by the Certified Financial Planner Board of Standards (“CFP Board”) for comment concerning the Revised Proposed Procedural Rules (“Procedural Rules”) that governs those who are subject to CFP Board’s enforcement function. NAPFA is the country’s leading professional association of Fee-Only comprehensive financial planning professionals with more than 3,800 members. Since its founding in 1983, NAPFA has embraced the high ideals of delivering independent objective financial advice in the client’s best interest.

NAPFA commends CFP Board for their effort to revise the rules that govern those who are subject to CFP Board’s enforcement function. NAPFA firmly believes that the new *Code and Standards* will only be as strong as the enforcement mechanism employed to hold CFP® professionals accountable. Given the attention garnered last year, a robust enforcement function is important for the efficacy of the *Code and Standards*. CFP Board has clearly examined how the current enforcement regime functions and proposed additional revisions to strengthen the disciplinary process in advance of the new *Code and Standards* becoming effective. A strong and fair disciplinary process is in the best interest of the profession and public. We appreciate the opportunity to comment on the Procedural Rules.

**Comments on the Revised Proposed Procedural Rules**

**12.1 b When Respondent Has Burden of Proof: Circumstances Involving Multiple Allegations of Misconduct**

NAPFA supports the provision that the existence of settled customer disputes constitutes grounds for sanction and placement of the burden of proof on Respondents to show why the allegations of misconduct raised in settled customer disputes are without merit. Respondents

alleged to have engaged in multiple instances of misconduct that are the subject of settled customer disputes should do everything in their power to show why the complaints are without merit. This includes producing documents and information requested by CFP Board Counsel believed to be material to the allegations in or by the customer disputes. Assuming the requested information is available, not producing it could be taken as a sign that the settlements have merit. This provision incentivizes transparent and active participation in the process.

### **17.9 Notice to Individuals Who Filed a Complaint**

NAPFA fully supports the addition of the provision requiring CFP Board Counsel to provide regular updates to individuals who file a Complaint against a Respondent and notice that a public sanction has or has not been issued when the matter is dismissed or finally adjudicated. We've heard from numerous parties that it appears as though complaints fall into an abyss and adding this requirement will keep Complainants knowledgeable about the status of the process.

### **Additional Comments**

NAPFA understands CFP Board's rationale for retaining provisions related to agreement on presentation of settlement offers to prevent imposing burdens on the time and resources of both CFP Board Counsel and the DEC. Historically the DEC has exercised its responsibility to review and approve settlement offers appropriately. In the future, it will be important for the DEC to continue its rigorous review of all settlement offers. Agreement between the CFP Board Counsel and the Respondent should not be granted a rubber stamp by the DEC.

In our January 2019 comment letter, NAPFA shared that the current complaint-based model could expose consumers to adverse situations and may diminish the value of the CFP® marks. The association continues to believe that the current complaint-based model offers little information to CFP Board regarding the overall level of compliance and is of minor benefit to the public. We'd like to reiterate our support for a risk or audit-based enforcement program that would serve all parties well. NAPFA encourages CFP Board to explore its options in this area.

### **Conclusion**

As an organization, NAPFA looks forward to engaging in further dialogue on the Procedural Rules and is ready to support CFP Board's efforts to prepare the practitioner community for their implementation. While an overwhelming majority of CFP® professionals will never face a disciplinary issue, they still need to understand the process and know that it is fair.

Submitted by: The National Association of Personal Financial Advisors