Morgan Lewis

MEMORANDUM

TO: ML Retail Advice Standards Working Group

FROM: Lindsay B. Jackson
Daniel R. Kleinman
Crishon A. McManus

DATE: July 15, 2019 DRAFT

SUBJECT: CFP Board – Code of Ethics and Standards of Conduct Worksheet

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This worksheet is intended to help broker-dealers and investment advisers assess the new Certified Financial Planners Board ("CFP Board") Code of Ethics and Standards of Conduct ("Standards") and determine what firm compliance method (e.g., policies, procedures, supervision, disclosure document, client agreement) may support CFP Board-certified representatives with their compliance with the standards.

Standard	Description	Considerations	Compliance Support
A. Duties Owed to Clients			
A.1.a. Duty of loyalty	At all times when providing Financial Advice to a Client, the CFP professional must: i. Place the interests of the Client above the interests of the CFP professional and the CFP professional's Firm;	• Duty of loyalty includes obligations to: o **Disclose** material conflicts; **and** o Put **Client's interests first**	

Standard	Description	Considerations	Compliance Support
	ii. 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 iii. 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.	• **Broker-dealers** should consider whether current disclosures and policies and supervision for suitability satisfy this duty. Aligning current standards to "client above" may be problematic. • **Advisers** are currently subject to a duty of loyalty that is generally viewed as addressed by disclosure and client consent to conflicts. Generally, Form ADV disclosures for advisers should satisfy the disclosure obligation, but advisers should consider whether additional policies and procedures are needed to meet the duty to put the Client's interests first. • For conflicts disclosure, need to consider ways of capturing Client's consent. Standards indicate consent need not be written, but non-written consents raise evidentiary issues. • See also Item A.5. below regarding disclosing and managing conflicts of interest.	
A.1.b. Duty of care	At all times when providing Financial Advice to a Client, the 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.	• Duty of care mirrors **ERISA's prudence** standard. • **Broker-dealers** may be able to take the position that policies and procedures for suitability are sufficient here, but there are questions as to whether prudence is a "higher" standard. • **Advisers** may be able to take the position that policies and procedures for meeting the Advisers Act duty of care are sufficient.	
A.1.c. Duty to follow Client instructions	At all times when providing Financial Advice to a Client, the CFP professional must comply with all objectives, policies, restrictions, and other terms of the Engagement and all reasonable and lawful directions of the Client.	• **Broker-dealers** and **Advisers** are generally required to follow client instructions under current law. • As such, **current policies and procedures and documentation should generally be sufficient**.	

Standard	Description	Considerations	Compliance Support
A.2. Integrity	a. A CFP professional must perform Professional Services with integrity. Integrity demands honesty and candor, which may not be subordinated to personal gain or advantage. Allowance may be made for innocent error and legitimate differences of opinion, but integrity cannot co-exist with deceit or subordination of principle. b. A CFP professional may not, directly or indirectly, in the conduct of Professional Services: i. Employ any device, scheme, or artifice to defraud; ii. Make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or iii. Engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.	• This standard generally requires **honesty and candor** and prohibits **fraud and deceit**. • **Broker-dealers** and **Advisers** are prohibited from engaging in fraud and deceit under current law. • As such, **current policies and procedures should generally be sufficient**.	
A.3. 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.	• This standard requires CFP professionals to be **knowledgeable** and **competent** when providing services. • **Broker-dealers and Advisers** generally **currently require** representatives to be knowledgeable and competent, including through applicable licensing, certification, continuing education, and training requirements. • Many broker-dealers and advisers also require additional training when dealing with complex products and special investor issues (e.g., seniors and retirement). • **Additional training modules or access to specialists may be helpful.**	

Standard	Description	Considerations	Compliance Support
A.4. Diligence	A CFP professional must provide Professional Services, including responding to reasonable Client inquiries, in a timely and thorough manner.	• **Broker-dealers** and **Advisers** should consider whether current policies and procedures address **timeliness and thoroughness** of services.	
A.5. Disclose and manage conflicts of interest.	a. **Disclose Conflicts.** 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. This obligation 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 give informed consent to such conflicts or reject them. A sincere belief by a CFP professional with a Material Conflict of Interest that he or she is acting in the best interests of the Client is insufficient to excuse failure to make full disclosure. i. 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. ii. 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, CFP Board will evaluate whether a reasonable Client receiving the disclosure would have understood the conflict and how it could affect the advice the Client will receive from the CFP professional. The greater the potential harm the conflict presents to the Client, and the more significantly a business practice that gives rise to the conflict departs from commonly accepted practices among CFP professionals, the less likely it is that CFP Board will infer informed consent absent clear evidence of informed consent. Ambiguity in the	• This standard overlaps with the Duty of loyalty standard discussed in Item A.1.a. above. • The ***disclosure obligation*** requires full disclosure of Material conflicts and informed consent from Client ***before*** the representative provides ***any Financial Advice***. o Requirement to provide disclosure before any advice is provided could present ***operational issues*** for both broker-dealers and investment advisers. o As noted above, Form ADV disclosures are likely sufficient for Advisers from a content perspective; broker-dealers should evaluate current disclosures. o While oral disclosure/consent is permitted, firms should consider whether written disclosures/consent provide better evidence of compliance. • The requirement to ***manage conflicts*** requires business practices reasonably designed to prevent material conflicts from preventing representatives from acting in the Client's best interests. o Broker-dealers and Advisers should consider whether current policies and procedures (including supervision and surveillance) are sufficient. o Broker-dealers may also consider whether policies and procedures considered in connection with the now-vacated DOL	

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	disclosure provided to the Client will be interpreted in favor of the Client. iii. Evidence of oral disclosure of a conflict will be given such weight as CFP Board in its judgment deems appropriate. Written consent to a conflict is not required. b. **Manage Conflicts.** A CFP professional 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.	fiduciary rule, or in anticipated in connection with the SEC's Regulation Best Interest could be helpful as well. o Broker-dealers and Advisers should consider whether to obtain an agreement/certification from their CFP professionals that such professional believe and agree that the firm's standard documentation meets the disclosure requirements.	
A.6. Sound and objective professional judgment	A CFP professional must exercise professional judgment on behalf of the Client that is not subordinated to the interest of the CFP professional or others. A CFP professional may not solicit or accept any gift, gratuity, entertainment, non-cash compensation, or other consideration that reasonably could be expected to compromise the CFP professional's objectivity.	• This standard generally limits the receipt of ***gifts, entertainment*** and other consideration that could influence the CFP professional. • ***FINRA rules currently limit*** broker-dealer's receipt of gifts and entertainment. • Both ***Broker-dealers and Advisers*** generally have policies and procedures regarding gifts and entertainment that may be considered in meeting this standard.	
A.7. Professionalism	A CFP professional must treat Clients, prospective Clients, fellow professionals, and others with dignity, courtesy, and respect.	Many firms have adopted codes of conduct that address representative's professionalism.	
A.8. Comply with the law	a. A CFP professional must comply with the laws, rules, and regulations governing Professional Services. b. A CFP professional may not intentionally or recklessly participate or assist in another person's violation of these Standards or the laws, rules, or regulations governing Professional Services.	Standard currently required.	

Standard	Description	Considerations	Compliance Support
A.9. Confidentiality and privacy	a. 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: i. 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; ii. 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;	This standard **limits disclosure** of a client's personal information to a third-party, or **use** of client information for the CFP professional's own benefit, and requires steps be taken to **safeguard** client data. Additionally, the CFP professional (or firm) must ***adopt written policies and procedures*** regarding safeguarding client data and must ***provide initial and annual notice*** to clients regarding the policies and procedures Firms generally have policies and procedures on client confidentiality and privacy/cyber security. Additionally, client agreements may address these issues. Firms should consider whether current policies and procedures are sufficient. Firms should consider whether current operations support initial and annual delivery of the notice.	

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	(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. b. A CFP professional may not use any non-public personal information about a client for his or her direct or indirect personal benefit, whether or not it causes detriment to the client, unless the client consents. c. 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. d. A CFP professional, either directly or through the CFP Professional's Firm, must adopt and implement policies regarding the protection, handling, and sharing of a client's non-public personal information and must provide a client with written notice of those policies at the time of the Engagement and thereafter not less than annually (at least once in any 12-month period) unless (i) the CFP professional's policies have not changed since the last notice sent to a client; and (ii) the CFP professional does not disclose non-public personal information other than as permitted without a client's consent.		

Standard	Description	Considerations	Compliance Support
A.10. Provide information to a client	a. **When Providing Financial Advice.** When providing or agreeing to provide Financial Advice that does not require Financial Planning in accordance with the Practice Standards, a CFP professional must provide the following information to the Client, prior to or at the time of the Engagement, and document that the information has been provided to the Client: i. A description of the services and products to be provided; ii. How the Client pays for the products and services, and a description of the additional types of costs that the Client may incur, including product management fees, surrender charges, and sales loads; iii. How the CFP professional, the CFP Professional's Firm, and any Related Party are compensated for providing the products and services; iv. The existence of any public discipline or bankruptcy, and the location(s), if any, of the webpages of all relevant public websites of any governmental authority, self-regulatory organization, or professional organization that sets forth the CFP professional's public disciplinary history or any personal bankruptcy or business bankruptcy where the CFP professional was a Control Person; v. The information required under Section A.5.a. (Conflict of Interest Disclosure); vi. The information required under Section A.9.d. (Written Notice Regarding Non-Public Personal Information);	These disclosures are fairly extensive, but firms may be able to leverage current disclosures (e.g., agreements, Form ADV, customer guides, ERISA section 408(b)(2) disclosures, BIC exemption disclosures, websites) to meet many of the elements—so long as the disclosures are provided prior to or at the time of engagement.	

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	vii. The information required under Section A.13.a.ii. (Disclosure of Economic Benefit for Referral or Engagement of Additional Persons); and viii. Any other information about the CFP professional or the CFP Professional's Firm that is Material to a Client's decision to engage or continue to engage the CFP professional or the CFP Professional's Firm. b. **When Providing Financial Planning.** When providing or required to provide Financial Planning in accordance with the Practice Standards, a CFP professional must provide the following information to the Client, prior to or at the time of the Engagement, in one or more written documents: i. The information required to be provided in Sections A.10.a.i.-iv. and vi. -viii.; and ii. The terms of the Engagement between the Client and the CFP professional or the CFP Professional's Firm, including the Scope of Engagement and any limitations, the period(s) during which the services will be provided, and the Client's responsibilities. A CFP professional is responsible for implementing, monitoring, and updating the Financial Planning recommendation(s) unless specifically excluded from the Scope of Engagement. c. **Updating Information.** A CFP professional has an ongoing obligation to provide to the Client any information that is a Material change or update to the information required to be provided to the Client. Material changes and updates to public disciplinary history or bankruptcy information must be disclosed to the Client within ninety (90) days, together with the location(s) of the relevant webpages.		

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A.11. Duties when communicating with a client	A CFP professional must provide a Client with accurate information, in accordance with the Engagement, and in response to reasonable Client requests, in a manner and format that a Client reasonably may be expected to understand.	Firms generally have policies and procedures that currently satisfy this standard.	
A.12. Duties when representing compensation method	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. Specific Representations i. **Fee-Only.** A CFP professional may represent his or her or the CFP Professional's Firm's compensation method as "fee-only" 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. ii. **Fee-Based.** CFP Board uses the term "fee and commission" to describe the compensation method of those who receive both fees and Sales-Related Compensation. A CFP professional who represents that his or her or the CFP Professional's Firm's compensation method is "fee-based" or any other similar term that is not fee-only: (A) May not use the term in a manner that suggests the CFP professional or the CFP Professional's Firm is fee-only; and (B) Must clearly state that either the CFP professional or the CFP Professional's Firm earns fees and commissions, or	This standard prohibits CFP professionals from making false or misleading statements about the professional's or the firm's compensation methods. There are specific requirements limiting the use of "fee-only" and "fee-based". Current law generally prohibits false and misleading statements regarding compensation, but firms that use the terms "fee-only" or "fee-based" should confirm doing so is permitted under this standard. CFP professionals are required to "correct" a firm's misstatement of compensation, which could create conflicts with the firm's policies, procedures, and disclosures.	

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	that the CFP professional or the CFP Professional's Firm are not fee only. b. **Sales-Related Compensation.** Sales-Related Compensation is 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 or entity other than the CFP Professional's Firm. Sales-Related Compensation includes, for example, commissions, trailing commissions, 12b-1 fees, spreads, transaction fees, revenue sharing, referral or solicitor fees, or similar consideration. Sales-Related Compensation does not include: i. Soft dollars (any research or other benefits received in connection with Client brokerage that qualifies for the "safe harbor" of Section 28(e) of the Securities Exchange Act of 1934); ii. Reasonable and customary fees for custodial or similar administrative services if the fee or amount of the fee is not determined based on the amount or value of Client transactions; iii. Non-monetary benefits provided by another service provider, including a custodian, that benefit the CFP professional's Clients by improving the CFP professional's delivery of Professional Services, and that are not determined based on the amount or value of Client transactions; iv. Reasonable and customary fees for Professional Services, other than for solicitations and referrals, the CFP professional or CFP Professional's Firm provides to a Client that are		

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	collected and distributed by another service provider, including under a Turnkey Asset Management Platform; or v. A fee the Related Party solicitor receives for soliciting clients for the CFP professional or the CFP Professional's Firm. c. **Related Party.** A person or business entity (including a trust) whose receipt of Sales-Related Compensation a reasonable CFP professional would view as directly or indirectly benefiting the CFP professional or the CFP Professional's Firm, including, for example, as a result of the CFP professional's ownership stake in the business entity. There is a rebuttable presumption that a Related Party includes: i. **Family Members.** A member of the CFP professional's Family and any business entity that the Family or members of the Family Control; and ii. **Business Entities.** A business entity that the CFP professional or the CFP Professional's Firm Controls, or that is Controlled by or is under common Control with, the CFP Professional's Firm. d. **In Connection with any Professional Services.** Sales-Related Compensation received by a Related Party is "in connection with any Professional Services" if it results, directly or indirectly, from Client transactions referred or facilitated by the CFP professional or the CFP Professional's Firm. e. **Safe Harbor for Related Parties.** Sales-Related Compensation received by a Related Party is not "in connection with any Professional Services" if the CFP professional or the CFP Professional's Firm adopts and implements policies and procedures reasonably designed to prevent the CFP professional or the CFP Professional's Firm from recommending that any		

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	Client purchase Financial Assets from or through, or refer any Clients to, the Related Party. f. **Misrepresentations by a CFP Professional's Firm.** A CFP professional who Controls the CFP Professional's Firm may not allow the CFP Professional's Firm to make a representation of compensation method that would be false or misleading if made by the CFP professional. A CFP professional who does not Control the CFP Professional's Firm must correct a CFP Professional's Firm's misrepresentations of compensation method by accurately representing the CFP professional's compensation method to the CFP professional's Clients.		
A.13. Duties when recommending, engaging, and working with additional persons	a. 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. b. When working with another financial or Professional Services provider on behalf of a Client, a CFP professional must:	This standard requires CFP professionals to meet a standard of care when referring clients to third-parties and to disclose any referral fees. While Advisers currently disclose referral fees, that is not necessarily the case for broker-dealers. Additionally, many firms do not view referrals as subject to a standard of care. As such, additional policies and procedures may be needed to support this standard. CFP professionals working with third-parties on behalf of a client must communicate regarding scope of services and allocate responsibilities and inform the client if services were not performed within scope/allocation. Firms generally allocate responsibilities/scope in arrangements with third-parties in the normal course of business. Additional policies and procedures may be needed to support reporting to clients—this raises operational concerns regarding how to determine when services are out of scope/allocation.	

Standard	Description	Considerations	Compliance Support
	i. Communicate with the other provider about the scope of their respective services and the allocation of responsibility between them; and ii. Inform the Client in a timely manner if the CFP professional has a reasonable belief that the other provider's services were not performed in accordance with the scope of services to be provided and the allocation of responsibilities.		
A.14. Duties when selecting, using, and recommending technology	a. A CFP professional must exercise reasonable care and judgment when selecting, using, or recommending any software, digital advice tool, or other technology while providing Professional Services to a Client. b. A CFP professional must have a reasonable level of understanding of the assumptions and outcomes of the technology employed. c. A CFP professional must have a reasonable basis for believing that the technology produces reliable, objective, and appropriate outcomes.	This standard imposes certain requirements on CFP professionals when using or recommending digital advice or other technology. While firms' current policies and procedures may support compliance, firms may want to consider whether technology-specific training would be helpful here, particularly where the firm offers digital advice programs.	
A.15. Refrain from borrowing or lending money and commingling financial assets	a. A CFP professional may not, directly or indirectly, borrow money from or lend money to a Client unless: i. The Client is a member of the CFP professional's Family; or ii. The lender is a business organization or legal entity in the business of lending money. b. A CFP professional may not commingle a Client's Financial Assets with the Financial Assets of the CFP professional or the CFP Professional's Firm.	This standard generally applies under applicable law and/or current policies and procedures.	
B. Financial Planning and Application of the Practice Standards for the Financial Planning Process			

Standard	Description	Considerations	Compliance Support
B.1. Financial planning definition	Financial Planning is a collaborative process that helps maximize a Client's potential for meeting life goals through Financial Advice that integrates relevant elements of the Client's personal and financial circumstances.	• Firms should consider whether current procedures and operations identify "financial planning" services consistently with this definition.	
B.2. Examples of relevant elements of the Client's personal and financial circumstances	Relevant elements of personal and financial circumstances vary from Client to Client, and may include the Client's need for or desire to: develop goals, manage assets and liabilities, manage cash flow, identify and manage risks, identify and manage the financial effect of health considerations, provide for educational needs, achieve financial security, preserve or increase wealth, identify tax considerations, prepare for retirement, pursue philanthropic interests, and address estate and legacy matters	• Relevant elements vary and depend on the Client's circumstances and objectives. • Many of these examples would generally be encompassed by policies and procedures for meeting suitability and Adviser's standard of care.	
B.3. Application of practice standards	The Practice Standards set forth the Financial Planning Process. A CFP professional must comply with the Practice Standards 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.	• The Practice Standards are set forth in Part C below. • Firms should consider whether current procedures and operations identify services that trigger the Practice Standards. • Note that the triggers include the Client's reasonable basis to believe Financial Planning will be provided—bringing in a degree of subjectivity to this analysis.	
B.4. Integration factors	Among the factors that CFP Board will weigh in determining whether a CFP professional has agreed to provide or provided Financial Advice that Requires Financial Planning are: a. The number of relevant elements of the Client's personal and financial circumstances that the Financial Advice may affect;	• The factors to determine whether "financial planning" is being offered seem to hinge on whether the advice is holistic in nature, or specific to a particular isolated transaction.	

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	b. The portion and amount of the Client's Financial Assets that the Financial Advice my affect; c. The length of time of 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.	• The factors also focus on the significance of the advice for the Client's investments, as well as its risks and overall impact on the Client. • The factors are generally broad and susceptible to differing interpretations.	
B.5. CFP Board evaluation	In a disciplinary proceeding in which a CFP professional denies CFP Board's allegation that the CFP professional was required to comply with the Practice Standards, the CFP professional must demonstrate that compliance with the Practice Standards was not required.	• Burden is on the CFP professional to prove Practice Standards did not apply.	
B.6. No client agreement to engage for financial planning	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.	• Generally, the Client must agree to the CFP professional's provision of Financial Planning subject to the Practice Standards. • Firms may want to consider training regarding what to do if the client does not agree to financial planning services, and identifying circumstances that require financial planning.	
C. Practice Standards for the Financial Planning Process.			

Standard	Description	Considerations	Compliance Support
C.0. General	In complying with the Practice Standards, a CFP professional must act prudently in documenting information as the facts and circumstances require, taking into account the significance of the information, the need to preserve the information in writing, the obligation to act in the Client's best interests, and the CFP professional's firm's policies and procedures.	Current processes and documentation should generally be available to meet these requirements. Providing worksheets or checklists for these requirements to the CFP professional may be helpful.	
C.1. Understanding the Client's personal and financial circumstances	a. **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. i. Examples of qualitative or subjective information include the Client's health, life expectancy, family circumstances, values, attitudes, expectations, earnings potential, risk tolerance, goals, needs, priorities, and current course of action. ii. Examples of quantitative or objective information include the Client's age, dependents, other professional advisors, income, expenses, cash flow, savings, assets, liabilities, available resources, liquidity, taxes, employee benefits, government benefits, insurance coverage, estate plans, education and retirement accounts and benefits, and capacity for risk. b. **Analyzing Information.** A CFP professional must analyze the qualitative and quantitative information to assess the Client's personal and financial circumstances. c. **Addressing Incomplete Information.** If unable to obtain information necessary to fulfill the Scope of Engagement, the CFP professional must either limit the Scope of Engagement to those services the CFP professional is able to provide or terminate the Engagement.	Current processes and standard reports/output should generally meet these requirements. Firms should consider whether any non-standard outputs/reports, or changes the CFP professional may make to standard outputs, meet these requirements.	

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C.2. Identifying and selecting goals	a. **Identifying Potential 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. b. **Selecting and Prioritizing Goals.** A CFP professional 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.	Current processes and standard report outputs should generally meet these requirements.	
C.3. Analyzing the Client's current course of action and potential alternative course(s) of action	a. **Analyzing Current Course of Action.** 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. b. **Analyzing Potential Alternative Courses of Action.** Where appropriate, a CFP professional must consider and analyze one or more potential alternative courses of action, including the material advantages and disadvantages of each alternative, whether each alternative helps maximize the potential for meeting the Client's goals, and how each alternative integrates the relevant elements of the Client's personal and financial circumstances.	Current processes and standard report outputs should generally meet these requirements.	
C.4. Developing the financial planning recommendations(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 information:	Current processes and standard report outputs should generally meet these requirements.	

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	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.		
C.5. Presenting the financial planning recommendations(s)	A CFP professional must present to the Client the selected recommendations and the information that was required to be considered when developing the recommendation(s).	Review of standard outputs/reports to ensure compliance should be considered.	
C.6. Implementing the financial planning recommendation(s)	a. **Addressing Implementation Responsibilities.** 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. b. **Identifying, Analyzing, and Selecting Actions, Products, and Services.** 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	Current processes and standard report outputs should generally meet these requirements, but review of current documentation should be considered (particularly with respect to Implementation requirements).	

Standard	Description	Considerations	Compliance Support
	ii. The advantages and disadvantages of the action, product, or service relative to reasonably available alternatives. c. **Recommending Actions, Products, and Services for Implementation.** 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. d. **Selecting and Implementing Actions, Products, or Services.** 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.		
C.7. Monitoring progress and updating	a. **Monitoring and Updating Responsibilities.** 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;	Current processes and standard report outputs should generally meet these requirements, but firms should consider reviewing current documentation (particularly with respect to Implementation requirements).	

Standard	Description	Considerations	Compliance Support
	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. b. **Monitoring the Client's Progress.** 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. c. **Obtaining Current Qualitative and Quantitative Information.** A CFP professional who has monitoring responsibility must collaborate with the Client in an attempt to obtain current qualitative and quantitative information concerning the Client's personal and financial circumstances. d. **Updating Goals, Recommendations, or Implementation Decisions.** Where a CFP professional has updating responsibility, and 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 these Practice Standards.		
D. Duties Owed to Firms and Subordinates			
D.1. Use reasonable care when supervising	A CFP professional must exercise reasonable care when supervising persons acting under the CFP professional's direction, including employees and other persons over whom the CFP professional has responsibility, with a view toward preventing violations of applicable laws, rules, regulations, and these Standards.	Firms should consider additional education for the CFP professional in this regard. Moreover, firms should consider whether requiring CFP professionals to determine whether the firm's current policies and procedures with regard to supervision of subordinates meets these standards.	
D.2. Comply with lawful objectives of CFP professional's firm	A CFP professional:	See D.1	

Standard	Description	Considerations	Compliance Support
	a. Will be subject to discipline by CFP Board for violating policies and procedures of the CFP Professional's Firm that do not conflict with these Standards. b. Will not be subject to discipline by CFP Board for violating policies and procedures of the CFP Professional's Firm that conflict with these Standards.		
D.3. Provide notice of public discipline	A CFP professional must promptly advise the CFP Professional's Firm, in writing, of any public discipline imposed by CFP Board.	See D.1	
E. Duties Owed to CFP Board			
E.1 Definitions	a. **Felony.** A felony offense, or for jurisdictions that do not differentiate between a felony and a misdemeanor, an offense punishable by a sentence of at least one-year imprisonment or a fine of at least $1,000. b. **Relevant Misdemeanor.** A criminal offense, that is not a Felony, for conduct involving fraud, theft, misrepresentation, other dishonest conduct, crimes of moral turpitude, violence, or a second (or more) alcohol and/or drug-related offense. c. **Regulatory Investigation.** An investigation initiated by a federal, state, local, or foreign governmental agency, self-regulatory organization, or other regulatory authority. A Regulatory Investigation does not include preliminary or routine regulatory inquiries or requests for information, deficiency letters, "blue sheet" requests or other trading questionnaires, or examinations. d. **Regulatory Action.** An action initiated by a federal, state, local, or foreign governmental agency, self-regulatory organization, or other regulatory authority. e. **Civil Action**. A lawsuit or arbitration. f. **Finding.** A finding includes an adverse final action and a consent decree in which the finding is neither admitted nor		

Standard	Description	Considerations	Compliance Support
	denied, but does not include a deficiency letter, examination report, memorandum of understanding, or similar informal resolution of a matter. g. **Minor Rule Violation.** A violation of a self-regulatory organization rule designated as a minor rule violation under a plan approved by the U.S. Securities and Exchange Commission. A rule violation may be designated as "minor" under a plan if the sanction imposed consists of a fine of $2,500 or less, and if the sanctioned person does not contest the fine.		
E.2. Refrain from adverse conduct	A CFP professional may not engage in conduct that reflects adversely on his or her integrity or fitness as a CFP professional, upon the CFP marks, or upon the profession. Such conduct includes, but is not limited to, conduct that results in: a. A Felony or Relevant Misdemeanor conviction, or admission into a program that defers or withholds the entry of a judgment of conviction for a Felony or Relevant Misdemeanor; b. A Finding in a Regulatory Action or a Civil Action that the CFP professional engaged in fraud, theft, misrepresentation, or other dishonest conduct; c. A personal bankruptcy or business bankruptcy filing or adjudication where the CFP professional was a Control Person of the business, unless the CFP professional can rebut the presumption that the bankruptcy demonstrates an inability to manage responsibly the CFP professional's or the business's financial affairs; d. A federal tax lien on property owned by the CFP professional, unless the CFP professional can rebut the presumption that the federal tax lien demonstrates an inability to manage responsibly the CFP professional's financial affairs; or e. A non-federal tax lien, judgment lien, or civil judgment that has not been satisfied within a reasonable amount of time unless the	Firms should consider additional education for the CFP professional in this regard. Moreover, firm's may want to consider getting annual certifications from CFP professionals that they are in compliance with any applicable standards required by an organization providing a certification under which the professional is operating.	

Standard	Description	Considerations	Compliance Support
	CFP professional can rebut the presumption that the nonfederal tax lien, judgment lien, or civil judgment demonstrates an inability to manage responsibly the CFP professional's financial affairs.		
E.3. Reporting.	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;	See E.2.	

Standard	Description	Considerations	Compliance Support
	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		

Standard	Description	Considerations	Compliance Support
	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.		
E.4. Provide narrative statement	The written notice must include a narrative statement that accurately and completely describes the Material facts and the outcome or status of the reportable matter.	See E.2.	
E.5. Cooperation	A CFP professional may not make false or misleading representations to CFP Board or obstruct CFP Board in the performance of its duties. A CFP professional must satisfy the cooperation requirements set forth in CFP Board's Procedural Rules, including by cooperating fully with CFP Board's requests, investigations, disciplinary proceedings, and disciplinary decisions.	See E.2.	
E.6. Compliance with terms and conditions of certification and trademark license.	A CFP professional must comply with the Terms and Conditions of Certification and Trademark License.	See E.2.	
F. Prohibition on Circumvention			
0. Prohibition on Circumvention	A CFP professional may not do indirectly, or through or by another person or entity, any act or thing that the Code and Standards prohibit the CFP professional from doing directly.	Firms should consider additional education for the CFP professional in this regard. Moreover, firms may want to consider getting annual certifications from CFP professionals that they are in compliance with any applicable standards required by an organization providing a certification under which the professional is operating.	