

New Ethical Standards Are Now in Effect!

Are you ready for the new rules laid down by the CFP? Here's a primer on what to do.

As most Certified Financial Planner professionals are aware, the CFP Board adopted the new *Code of Ethics and Standards of Conduct* in March 2018, with an effective date of Oct. 1, 2019. This gap was intended as a grace period for CFPs to review and update current processes to comply with the revised *Standards*.

While the effective date for compliance remains Oct. 1, 2019, the enforcement date was moved to June 30, 2020. For conduct that occurs between Oct. 1, 2019 and June 29, 2020, the CFP Board will continue to enforce violations of the previous *Standards of Professional Conduct*. But starting June 30, 2020, CFP professionals may then be subject to disciplinary action for any violation of the new *Standards*.

As the revised *Standards* contains several important changes, including a significant expansion of the advisor's fiduciary duty, I spoke to my colleague, Jeff Lang, regarding the new CFP Rules and how they might impact a firm's practices.

Jeff advised that under the revised *Standards*, all CFP professionals providing financial advice are required to act as a fiduciary, and thus in the best interest of the client at all times, not just when the advisor is providing financial planning. This requirement applies regardless of whether an advisor is paid through a fee or through sales compensation, which includes commissions. The *Standards* sets forth the following duties to be fulfilled by fiduciaries:

- Duty of Loyalty
- Duty of Care
- Duty to Follow Client Instructions

The revised *Standards* contains more specific guidance regarding information that must be provided to the client prior



to, or at, the time of engagement to provide financial advice. This includes:

- A description of products and services to be offered;
- The manner in which clients pay for these products and services;
- How the CFP, their firm and related parties are compensated; and
- Disclosure of public disciplinary or bankruptcy information leveraging public websites.

Fortunately, the CFP is able to leverage existing documentation, such as the Form ADV brochure or client agreements, to meet many of these requirements.

In addition, Jeff said the *Standards* contains a new concise definition of financial planning that is more easily understood by clients and prospects. The financial planning process (including application of the Practice Standards] has been substantially updated and reorganized. It now has more detailed requirements captured in a new seven-step process.

The *Standards* also sets forth guidelines for determining when the Financial Planning Practice Standards must be applied to a client relationship. Additional guidance is offered to address situations where compliance

with the practice standards is required, but the client does not agree to the provision of financial planning services.

Other important updates include:

- Requirements for selecting, using and recommending technology;
- Additional guidance on the CFP enforcement process and information on expanded obligations for reporting disciplinary matters to the CFP Board in a timely fashion;
- Additional guidance on use of the terms “Fee-Only” and “Fee-Based” to describe compensation.

Remember, the *Standards* target CFP professionals and not their respective firms. Regulators, such as the Securities and Exchange Commission and FINRA do not supervise or enforce the *Standards*. However, to the extent that firms include policies and procedures to govern the advisor's activities, regulators may consider these during their review/exam of firms.

This isn't an exhaustive summary, and CFP professionals should be sure to study the *Standards* carefully. The CFP Board has published several guidance documents, including the *Roadmap to the Code and Standards*, *Frequently Asked Questions*, *Case Studies Applying the New Standards*, and a *Commentary* to assist advisors in understanding and implementing the new *Standards*. **IA**

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