

CFP Board's Revised *Standards of Professional Conduct*:

Frequently Asked Questions

Q1: Why has CFP Board revised the ethical standards for CFP® certificants?	3
Q2: How do the updated Standards relate to federal and state statutes, rules, regulations and case law with respect to the obligations of a CFP® certificant?	3
Q3: Are the updated Standards stronger than the current standards?	3
Q4: What distinctions do the updated Standards make between financial planning services and other services that don't rise to the level of financial planning?	3
Q5: Why doesn't CFP Board just say that all CFP® certificants are fiduciaries?	4
Q6: How does CFP Board define financial planning?	4
Q7: Why doesn't CFP Board use the same definitions used by Federal and State regulators and courts for important terms such as "financial planning" and "fiduciary"?	5
Q8: What activities fall under the category of "material elements of the financial planning process" and how can CFP® certificants determine when a specific service or activity rises to the level of a "material element"?	6
Q9: How can a CFP® certificant be certain that a recommendation is the "best" for a client, given the enormous variety of financial strategies and products available? Does CFP Board expect CFP® certificants to investigate every conceivable option that might be available to a particular client?	7
Q10: Does conducting a needs analysis or suitability review reach the level of financial planning or material elements of the financial planning process?	8
Q11: What disclosures do the updated Standards require for client engagements that <u>do not</u> involve financial planning or material elements of the financial planning process?	8
Q12: What disclosures do the updated Standards require for client engagements that <u>do</u> involve financial planning or material elements of the financial planning process?	8
Q13: In what ways are the disclosures required by the updated Standards different from the disclosure requirements in the current Standards?	9
Q14: Is any additional written documentation required by the updated Standards?	9
Q15: Do the updated Standards apply to those who hold CFP® certification but who do not display the CFP® marks or hold themselves out as financial planners?	9
Q16: Will the updated Standards be applied differently for certificants with different licenses or registrations (such as registered representatives, investment adviser representatives, insurance agents)?	10
Q17: How do the updated Standards relate to CFP® certificants who provide services as part of a team arrangement, where the CFP® certificant may or may not have direct contact with a client and may provide only limited, specific services in support of a particular client?	10
Q18: Is it possible for a CFP® certificant to be subject to two different standards of care at the same time?	10
Q19: Is it possible for a client of a CFP® certificant to terminate the financial planning engagement with the CFP® certificant and still receive other services from the CFP® certificant?	11
Q20: In situations where a client hires a CFP® certificant to implement financial planning recommendations prepared by another individual, will the CFP® certificant's implementation activities be considered financial planning or material elements of the financial planning process?	12



Q21: What responsibilities do firms have to ensure that their employees and affiliates who hold CFP® certification adhere to CFP Board’s ethical standards?	12
Q22: Is a CFP® certificant who provides financial planning services more likely to be disciplined by CFP Board than a CFP® certificant who does not provide financial planning services?	13
Q23: Do the updated Standards increase liability for CFP® certificants?	13
Q24: How do the updated Standards relate to CFP® certificants who provide clients principal-trade transactions?	14
Q25: How do the updated Standards relate to CFP® certificants who provide services that include recommending or transacting the proprietary financial products of the CFP® certificant’s employer or principal?	14
Q26: Does a CFP® certificant who is not providing financial planning or using the financial planning process need to provide clients or prospective clients with written disclosure documents?	15
Q27: When should a CFP® certificant send out disclosure documents to clients?	15
Q28: Does CFP Board expect CFP® certificants to hand deliver disclosure documents or can the documents be posted or delivered on a certificant’s or the certificant’s employer’s Web site?	16
Q29: Rule 2.2 requires a CFP® certificant to disclose “an accurate and understandable description of the compensation arrangements being offered.” How does CFP Board define “information related to costs and compensation to the certificant and/or the certificant’s employer?” What does CFP Board mean by “any other sources of compensation?”	16
Q30: Will CFP Board provide sample agreements and disclosures that CFP® certificants can use with their clients?	17
Q31: How many elements of the financial planning process can a certificant provide without having those activities constitute “material elements of the financial planning process”?	17
Q32: How many financial planning subject areas can a certificant address with a client without reaching the level of “material elements of the financial planning process”?	18
Q33: I have a specific question not addressed in this FAQ. How can I request an answer to my question?	18

Q1: Why has CFP Board revised the ethical standards for CFP® certificants?

A: CFP Board continually updates its standards and procedures, and the revised *Standards of Professional Conduct*, which includes the *Code of Ethics and Professional Responsibility*, *Rules of Conduct* and *Financial Planning Practice Standards* (collectively referred to as the "updated Standards"), reflect the most recent of such initiatives.

- The first *Code of Ethics* was introduced in 1985, and revisions were made in 1988, including the introduction of the first *Disciplinary Rules and Procedures*.
- The next major revision, in 1993, established the Principles and Rules of the *Code of Ethics*.
- The Board of Practice Standards began work on the *Practice Standards* in 1995 and the standards were first published in 1999.
- The *Practice Standards* were finalized in 2002, and in 2003 the 400 series in the Rules was revised.
- The latest revision of the *Code of Ethics*, *Rules of Conduct* and *Practice Standards* began in 2005, and the updated *Standards* takes effect July 1, 2008.

CFP Board's governing Board has responsibility for ensuring that the ethical standards for CFP® certification remain strong, enforceable and appropriate for the current regulatory and business environment. When CFP Board's ethical standards were first introduced, the very concept of financial planning as a profession was newly formulated. The business and regulatory environment that existed then was very different than the current environment.

These latest revisions are intended to maintain CFP Board's high ethical standards, strengthen them in several important ways, and present the standards in a manner that will be easily understood by CFP® certificants and the public they serve.

Q2: How do the updated Standards relate to federal and state statutes, rules, regulations and case law with respect to the obligations of a CFP® certificant?

A: The updated Standards require a CFP® certificant to be in compliance with applicable regulatory requirements governing professional services provided to the client. [See Rule 4.3] The updated Standards apply to all CFP® certificants regardless of the licenses, certifications or registrations each holds. Thus, the updated Standards are only binding upon the CFP® certificant and are not intended to alter or define currently existing federal, state or self-regulatory requirements. As such, the updated Standards clearly provide that CFP Board's ethical standards "are not designed to be a basis for legal liability to any third party." [See Introduction to *Rules of Conduct* and *Financial Planning Practice Standards*] CFP Board has authority only over the individuals to whom it has granted CFP® certification; CFP Board does not certify broker-dealers, investment advisory firms, mutual fund companies, hedge funds or other entities, and those entities are therefore not required to abide by CFP Board's Standards.

Q3: Are the updated Standards stronger than the current standards?

A: Yes. While many standards were left unchanged, the following key existing standards have been strengthened:

- The baseline duty of care for those holding CFP® certification has been raised from the current "reasonable and prudent professional judgment" standard to a requirement that a CFP® certificant "shall at all times place the interest of the client ahead of his or her own." [See Rule 1.4]
- For CFP® certificants providing financial planning services, the duty of care has been raised from the current duty to "act in the interest of the client" to the "duty of care of a fiduciary," which is partly defined as acting "in the best interest of the client." [See Rule 1.4 and Terminology]
- Requirements for disclosures to clients and prospective clients, and requirements for documentation of the relationship with a client have also been strengthened. The updated *Standards* also clarifies that the disclosure requirements for CFP® certificants apply to clients as well as prospective clients. [See Rules 1.2 and 2.2]

Q4: What distinctions do the updated Standards make between financial planning services and other services that don't rise to the level of financial planning?

A: The updated Standards apply to all CFP® certificants, but certain sections of the *Rules of Conduct* set forth additional requirements for CFP® certificants who provide financial planning services to clients. When a CFP®

certificant provides financial planning or material elements of the financial planning process, the updated Standards require:

- 1) A heightened duty of care to the client,
- 2) Additional disclosures to the client or prospective client, including some that must be made in writing, and
- 3) A written agreement governing the financial planning services.

The individual Rules related only to client engagements that rise to the level of financial planning or material elements of the financial planning process are as follows:

Rule 1.4 sets the baseline duty of care CFP® certificants owe at all times to clients: "place the interest of the client ahead of his or her own." That same rule sets forth a heightened duty of care for CFP® certificants who provide to clients financial planning or material elements of the financial planning process: "the duty of care of a fiduciary as defined by CFP Board." CFP Board's definition of fiduciary is: "One who acts in utmost good faith, in a manner he or she reasonably believes to be in the best interest of the client."

Rule 1.2 describes information that must be disclosed by a CFP® certificant to clients and prospective clients if the services to be provided include financial planning or material elements of the financial planning process.

Rule 2.2 identifies information that must be disclosed by a CFP® certificant to all clients and prospective clients, regardless of whether the services to be provided rise to the level of financial planning. When the services do rise to the level of financial planning or material elements of the financial planning process, section (e) of Rule 2.2 requires that the disclosures be made in writing.

Rule 1.3 requires that if services to be provided include financial planning or material elements of the financial planning process, the certificant (or the certificant's employer) shall enter into a written agreement with the client governing the financial planning services.

Q5: Why doesn't CFP Board just say that all CFP® certificants are fiduciaries?

A: The updated Standards do say that all CFP® certificants who provide financial planning services will be held to the duty of care of a fiduciary, as defined by CFP Board. However, some CFP® certificants may be engaged in a wide range of business activities unrelated to financial planning, and CFP Board is not likely to impose a fiduciary standard in such situations. The agreement between the CFP® certificant and the client regarding the services to be provided will be a factor in helping CFP Board and all parties determine whether financial planning services are provided.

For example, a CFP® certificant who simply completes paperwork to open a client account, without providing any recommendations or advice about the assets or investments to be placed in that account, is not engaged in financial planning activities and will not, under the updated Standards, be required to provide services with the duty of care of a fiduciary, as defined by CFP Board. Similarly, the updated Standards do not require a CFP® certificant to adhere to a fiduciary duty of care when engaging solely in sales activity related to brokerage or insurance products, as long as those activities do not rise to the level of financial planning or material elements of the financial planning process.

While CFP Board's fiduciary standard is reserved for financial planning services, the updated Standards nevertheless require a high duty of care for all CFP® certificants in any type of client relationship: "A certificant shall at all times place the interest of the client ahead of his or her own." [See Rule 1.4]

Q6: How does CFP Board define financial planning?

A: The updated *Standards* define financial planning as "the process of determining whether and how an individual can meet life goals through the proper management of financial resources. Financial planning integrates the financial planning process with the financial planning subject areas." There are six steps to the financial planning process:

- 1) Establishing and defining the client-planner relationship
- 2) Gathering client data including goals
- 3) Analyzing and evaluating the client's current financial status
- 4) Developing and presenting recommendations and/or alternatives

- 5) Implementing the recommendations
- 6) Monitoring the recommendations

However, a financial planning engagement may not involve all six steps. For example, some clients may ask their CFP® certificant to provide financial planning recommendations but then go to another financial services provider for implementation of those recommendations. Other clients may ask a CFP® certificant solely for implementation of specific investments or strategies. Another client may ask a CFP® certificant to review only one aspect of his or her financial situation, such as estate issues or insurance needs. While these examples do not represent “comprehensive” financial planning, they may nevertheless constitute financial planning engagements.

It is important to note that while some may believe that financial planning consists essentially of investment advice, retirement planning or estate planning, those are financial planning subjects that may or may not be part of the financial planning process as it is applied to a specific client’s situation.

When determining whether a financial planning engagement exists, the entirety of a client relationship should be examined. If the services to be provided are limited in scope, that client relationship may not be a financial planning engagement. When the services provided to an individual client become financial planning or material elements of the financial planning process, however, that client relationship has become a financial planning engagement; all future services to that client are likely to be considered by CFP Board to be part of that financial planning engagement until such time as the financial planning engagement is terminated. The certificant should note that simply terminating the relationship may not end his/her fiduciary responsibilities to a client if the termination merely circumvents the certificant’s obligations and the certificant is using financial planning to service his/her clients. An ongoing relationship between the client and the same certificant will probably not end the fiduciary relationship as explained in other areas of the FAQs. [See FAQ’s 8, 18, 31 and 32]

CFP Board recognizes that some or all of the six steps described above are not unique to the financial planning process and may be provided to clients in connection with other activities such as, brokerage, investment advisory and/or insurance products and services. Examples include gathering client information as part of a suitability analysis, making recommendations of various brokerage, investment advisory and/or insurance products to meet a particular need or needs and implementing such recommendations. In determining whether a financial planning engagement exists, CFP Board will consider the circumstances involved, and in particular the following criteria:

- 1) The client’s understanding and intent in engaging the certificant.
- 2) The degree to which multiple financial planning subject areas are involved.
- 3) The comprehensiveness of data gathering.
- 4) The breadth and depth of recommendations.

CFP Board does not advocate any particular business model or compensation arrangement. The updated *Standards* are compensation-neutral, and compliance with the updated *Standards* is possible for both CFP® certifiants with fee-based practices and those who are commission- or salary-based. Regardless of a CFP® certificant’s compensation arrangement or business model, CFP Board’s updated *Standards* require a CFP® certificant to obtain any licenses or registrations required by state or federal authorities for all specific activities in which that individual is engaged. [See Rule 4.3] CFP Board’s updated *Standards* also require disclosure of material information about a CFP® certificant’s business model and any compensation arrangement related to the client engagement. [See Rules 1.2 and 2.2]

Q7: Why doesn’t CFP Board use the same definitions used by Federal and State regulators and courts for important terms such as “financial planning” and “fiduciary”?

A: The terminology used in CFP Board’s updated *Standards* was crafted to be relevant to the activities of those who hold CFP® certification and to facilitate CFP Board’s enforcement of its standards. During the development of the updated *Standards*, CFP Board did review and consider existing definitions of important terms used by other bodies, including those set out by federal and state regulators and those established by case law. The way financial planning is defined by bodies other than CFP Board is not consistent and changes from time to time. The definitions also tend to address financial planning only peripherally.

While the term “fiduciary” in the updated *Standards* is not defined exactly as other bodies have defined the term, CFP Board believes it does, when combined with the other rules contained in the *Standards*, include the elements commonly attributed to fiduciary duty, as variously stated by regulators and other bodies, including:

- 1) Putting the clients' best interests first when providing financial planning [see definition of "Fiduciary"],
- 2) Acting with utmost good faith [see definition of "Fiduciary"],
- 3) Prohibiting misleading communication [see Rule 2.1], and
- 4) Providing full and fair disclosure of all material facts, including conflicts of interest. [See Rules 1.2, 1.3 and 2.2]

CFP Board felt it important to establish definitions appropriate for CFP® certificants in a simple, clear manner that would be understood easily by CFP® certificants and the clients they serve.

Q8: What activities fall under the category of "material elements of the financial planning process" and how can CFP® certificants determine when a specific service or activity rises to the level of a "material element"?

A: CFP Board's Disciplinary and Ethics Commission (Commission) has provided the following guidelines to help CFP® certificants determine when their activities are financial planning or material elements of the financial planning process. Some of the primary criteria for determining "material elements" are:

- 1) The client's understanding and intent in engaging the certificant,
- 2) The degree to which multiple financial planning subject areas are involved,
- 3) The comprehensiveness of data gathering, and
- 4) The breadth and depth of recommendations.

Using these criteria, it is easy to see some clear distinctions between activities that are likely to be considered financial planning and those that are not. Also note that financial planning is not categorized by product or service modules as may be used in the financial services industry. Using multiple modules may be considered financial planning. When CFP Board investigates a matter based, in part, on the *Rules of Conduct*, CFP Board will be guided by the criteria as indicated by the Commission.

Activities that may be material elements of the financial planning process include:

- Conducting detailed data-gathering regarding multiple aspects of a client's financial situation.
- Analyzing a client's data and making wide-ranging recommendations.
- Providing investment advisory services as defined by the applicable State or Federal regulators.

Activities that may not be material elements of the financial planning process include:

- Completing paperwork to open an account.
- Solely providing brokerage and/or insurance products or services.
- Engaging in activity solely related to the sale of a specific product.
- Acting as a mortgage broker without providing any other financial services.
- Completing tax returns without providing any other financial services.
- Teaching a financial class or continuing education program.

The above are examples and should not be considered an all-inclusive list. These guidelines are designed to be helpful for individual certificants reviewing their own activities, and CFP Board's Commission will also use these when reviewing specific cases. As noted above, the terminology section of CFP Board's updated *Standards* does not define "material elements of the financial planning process." Under the definition of "financial planning," however, the *Standards* note that certificants may determine when they are providing services using the material elements of the financial planning process by considering, among other things, the degree to which multiple financial planning subject areas are involved. CFP Board believes that services involving a single subject area alone and applying the financial planning process to that single subject area are not likely to be considered material elements of the financial planning process. However, if a certificant uses multiple subject areas and integrates those subject areas with the steps of the financial planning process, the certificant may be providing services employing material elements of the financial planning process. Certificants should consider whether the client's understanding and intent in engaging the certificant give the client reason to believe the services are financial planning, and certificants should also consider the comprehensiveness of data gathering and the breadth and depth of recommendations.

When determining whether a financial planning engagement exists, the entirety of a client relationship should be examined. These questions may guide the determination:

- Is the certificant involving the steps of the financial planning process?
- How many financial planning subject areas are involved with meeting the client's goals?
- With respect to the services provided, what was communicated to the client?
- Did the certificant consider the criteria for providing services using the material elements of financial planning process? [See FAQ's 6, 18, 31 and 32]

Financial planning often does not occur in neat boxes but is a process that progresses and evolves over the course of a financial planner's relationship with a client. While answering a question of a specific nature – such as "How much money do I need to set aside each month to send my 2-year-old to Notre Dame?" – is probably not by itself financial planning, answering a broader question that involves multiple aspects of a client's situation – such as "How much do I need to save so I'll have a secure retirement?" – can rise to the level of financial planning depending on the particular circumstances involved.

Products, services, solutions and strategies are used in financial planning as a means to an end – meeting life goals through proper management of financial resources – and not ends in themselves. CFP Board encourages certificants who are unsure if a particular service or client relationship rises to the level of financial planning to embrace CFP Board's fiduciary standard and provide services in ways they believe are in the best interest of the client.

The question of whether a client relationship involves financial planning is one that is determined on a case-by-case basis. Because it would be impossible to provide guidelines for every possible situation related to financial planning, CFP Board's Disciplinary and Ethics Commission is in the process of developing guidance documents to assist CFP® certificants in complying with the *Standards*. To submit a particular situation for the Commission to consider, or to submit questions about specific aspects of the updated *Standards* and their application to specific situations, contact CFP Board at standards@CFPBoard.org.

Q9: How can a CFP® certificant be certain that a recommendation is the "best" for a client, given the enormous variety of financial strategies and products available? Does CFP Board expect CFP® certificants to investigate every conceivable option that might be available to a particular client?

A: CFP Board's ethical standards have always emphasized the importance of professional judgment. The importance of a CFP® certificant's professional judgment is highlighted in the definition of "fiduciary" in the updated *Standards*: "One who acts in utmost good faith, in a manner he or she reasonably believes to be in the best interest of the client." CFP Board expects CFP® certificants to provide only financial planning recommendations (services and/or products) that they reasonably believe to be the best possible options available to their clients.

CFP Board acknowledges that it is impossible to review all possible options to select the best. There can be nearly infinite options when one brings together an individual's situation and goals with the ever-increasing range of choices available to the financial services industry. For a CFP® certificant who works in a setting where business or regulatory requirements limit the services or investments that can be made available to clients (captive agents, for example), CFP Board expects any financial planning services provided to be the best services and recommendations available, given the CFP® certificant's reasonable professional judgment and the limitations placed on the CFP® certificant by those business or regulatory requirements. In such situations, the CFP® certificant would be expected to disclose the limitations to the client, including any contractual or agency relationships that have potential to affect the client and any terms under which proprietary products may be offered.

For the CFP® certificant who is engaged in financial planning or materials elements of the financial planning process, *Practice Standards* 400-2 explains that "the recommendations developed by the practitioner may differ from those of other practitioners or advisers, yet each may reasonably meet the client's goals, needs and priorities." Additionally, *Practice Standards* 500-2 explains that "products and services selected by the practitioner may differ from those of other practitioners or advisers [and m]ore than one product or service may exist that can reasonably meet the client's goals, needs and priorities."

Q10: Does conducting a needs analysis or suitability review reach the level of financial planning or material elements of the financial planning process?

A: There are a wide variety of activities that are labeled “needs analysis,” and some of those activities may reach the level of financial planning or material elements of the financial planning process. If a “needs analysis” is focused on gathering detailed information about multiple aspects of a client’s financial situation and analyzing that information in light of the client’s stated future goals, or if the analysis is used to make wide-ranging recommendations, that “needs analysis” is considered financial planning.

In contrast, if a “needs analysis” is focused on a limited component of the client’s financial situation, and does not involve other services related to financial planning, that analysis may not rise to the level of financial planning. For instance, if a client hires a CFP® certificant solely to purchase life insurance, the CFP® certificant will by necessity obtain information about the client sufficient to ensure that any policies recommended meet the client’s needs. If the “needs analysis” is focused solely on factors related to the client’s life insurance needs, that analysis may not rise to the level of financial planning.

A standard suitability review conducted in association with a transaction – a review that takes into consideration such basic elements as the client’s age, net worth and risk tolerance – does not typically reach the level of financial planning or material elements of the financial planning process.

The facts and circumstances of each situation are a key factor in CFP Board’s determination of whether a CFP® certificant has engaged in financial planning or material elements of the financial planning process.

Q11: What disclosures do the updated Standards require for client engagements that do not involve financial planning or material elements of the financial planning process?

A: Rule 2.2 sets forth the disclosures required of all CFP® certificants when dealing with clients and prospective clients. These disclosures include the following general areas:

- 1) Any compensation that may be related to the client engagement,
- 2) Any conflicts of interest that may affect the client engagement,
- 3) Any relevant information about the certificant or the certificant’s employer, and
- 4) Contact information for the certificant and, if applicable, the certificant’s employer.

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

Q12: What disclosures do the updated Standards require for client engagements that do involve financial planning or material elements of the financial planning process?

A: CFP® certificants involved in client engagements that do involve financial planning or material elements of the financial planning process must make all of the disclosures listed in Rule 2.2, and they must also make those disclosures in writing. [See Q11, above] The written disclosures need not be a single newly-created document; the written disclosures may be made through multiple documents or through existing disclosure documents, such as Form ADV, that are used to make disclosures in compliance with state or federal laws, or the rules or requirements of any applicable self-regulatory organization.

Rule 1.2 outlines additional disclosure obligations to clients or prospective clients for engagements that include financial planning or material elements of the financial planning process, including the following general areas:

- 1) The obligations and responsibilities of each party,
- 2) Any compensation that may be related to the client agreement,
- 3) Any factors that determine costs,
- 4) The terms under which proprietary products may be offered, and
- 5) The terms under which other entities will be used to meet any services outlined in the agreement.

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

Q13: In what ways are the disclosures required by the updated Standards different from the disclosure requirements in the current Standards?

A: The updated Standards introduce several changes to the disclosure requirements for CFP® certificants:

1) Disclosures Required for Prospective Clients

The updated Standards expand CFP Board's disclosure requirements by requiring disclosures to be made to prospective clients as well as existing clients, including material information relevant to the professional relationship such as compensation and conflicts of interest, as well as information about the CFP® certificant's credentials and business affiliations. [See Rules 1.2 and 2.2]

2) Additional Guidance about Disclosing Conflicts and Compensation

The updated Standards provide additional guidance about the types of conflicts [See Rule 2.2(b)] and the type of compensation disclosure that must be made to clients and prospective clients, including direct and indirect sources of compensation to the CFP® certificant and/or the certificant's employer. [See Rule 2.2(a)]

3) Ongoing Disclosure Obligation

While the current Standards require CFP® certificants to tell clients on an annual basis that they can request updated information about compensation and conflicts of interest, the updated Standards provide a more proactive requirement, stating that the CFP® certificant shall make timely disclosure updates to the client if previously-disclosed information becomes outdated. [See Rule 2.2]

Q14: Is any additional written documentation required by the updated Standards?

A: Yes. Rule 1.3 requires that financial planning services be accompanied by a written agreement that identifies:

- 1) The parties to the agreement,
- 2) The date of the agreement and its duration,
- 3) The procedure and terms for terminating the agreement, and
- 4) A description of the services to be provided as part of the agreement.

This written agreement requirement may be satisfied through multiple documents, and it is CFP Board's belief that most CFP® certificants or their employers currently provide clients with written documents that cover the requirements of Rule 1.3.

The written agreement requirement was designed to help ensure that CFP® certificants and their clients define clearly the services involved in a specific business relationship and help reduce disputes based on misunderstandings of those services.

As with the current Standards, the updated Standards require that CFP® certificants entering a financial planning engagement make specific written disclosures to the client or prospective client. [See Rules 1.2 and 2.2] The disclosures required to be in writing under the updated Standards do not differ significantly from the written disclosures required by the current Standards.

Q15: Do the updated Standards apply to those who hold CFP® certification but who do not display the CFP® marks or hold themselves out as financial planners?

A: Yes. The updated Standards, as do the current Standards, require a baseline duty of care for all client relationships that involve an individual who holds CFP® certification. When CFP Board applies its Standards to an individual who holds CFP® certification, CFP Board's focus is on the conduct of the certificant, not only the titles used to describe the certificant's roles or services. A CFP® certificant is obligated to abide by CFP Board's *Standards of Professional Conduct*, irrespective of whether the CFP® marks appear on the certificant's business cards or stationery. Removal of the CFP® marks from one's business cards or stationery does not relieve a CFP® certificant of the obligation to follow the Standards.

CFP® certificants have, on occasion, been asked by their companies to remove the CFP® marks from their business cards and promotional materials. Some such requests have been made based on misunderstandings of

CFP Board's Standards and their application. CFP Board encourages CFP® certificants in similar situations to notify CFP Board and to request that their company representatives contact CFP Board.

Q16: Will the updated Standards be applied differently for certificants with different licenses or registrations (such as registered representatives, investment adviser representatives, insurance agents)?

A: No. The updated Standards apply to all CFP® certificants, regardless of the licenses or registrations each holds, and despite the specific business or compensation structure each uses.

Q17: How do the updated Standards relate to CFP® certificants who provide services as part of a team arrangement, where the CFP® certificant may or may not have direct contact with a client and may provide only limited, specific services in support of a particular client?

A: The updated Standards apply to all CFP® certificants, regardless of the licenses or registrations each holds, and despite the specific business or compensation structure each uses. CFP Board has authority only over the individuals to whom it has granted CFP® certification; teams as entities and team members not certified by CFP Board are not required to abide by its standards.

CFP Board's application of the updated Standards to a CFP® certificant who functions as a member of a team will focus primarily on the functions performed by the individual. The focus will include a determination of the contributions the CFP® certificant makes to services the team provides to a client. That determination may include evaluating the overall services the team provides to a client as context for the CFP® certificant's contributions.

A team situation is likely to involve numerous variables that affect the context in which the CFP® certificant contributes to a team's services to a client. When making a determination of whether a CFP® certificant who is part of a team is providing financial planning services, the following criteria may be applicable:

- 1) The client's understanding and intent in engaging the team and, specifically, the CFP® certificant's contributions to the team and more specifically, the CFP® certificant's role with the client;
- 2) The degree to which the CFP® certificant's contributions to the team involve multiple financial planning subject areas;
- 3) The comprehensiveness of the data gathering the CFP® certificant conducts as part of the team's services to the client; and
- 4) The breadth and depth of any recommendations the CFP® certificant contributes to the team's services to the client.

If the client has entered into a financial planning engagement with a team or if the team provides services that are financial planning or material elements of the financial planning process, it is possible that the activities of a CFP® certificant who functions on the team may be considered financial planning and require adherence to the requirements the updated Standards set forth for financial planning services. CFP® certificants in similar situations should review their team's procedures to ensure that the team's clients receive disclosures and a written agreement that include the information required by the updated Standards. [See Rules 1.2, 1.3, 1.4 and 2.2]

Q18: Is it possible for a CFP® certificant to be subject to two different standards of care at the same time?

A: Yes. A CFP® certificant must at all times place the interest of the client ahead of his or her own. The updated *Standards* also provide an additional standard of care for financial planning services, the duty of care of a fiduciary, as defined by CFP Board. CFP® certificants providing financial planning services are subject to both these standards of care. [See Rule 4.1] Given the current regulatory structure of the financial services industry in the U.S., which assigns regulatory oversight to various bodies based on the type of product or service involved, rather than the type of client relationship within which those products or services are provided, it is a common practice for financial service providers to be dual registrants (i.e., offer both investment advisory and brokerage services). With the differences in the standards imposed by different regulatory bodies, some financial services firms attempt to segment the different services provided to clients.

In order to minimize client confusion regarding the type of service that is being provided by CFP® certificants, it is important that there be agreement and clear disclosures regarding the scope of the financial planning

engagement and the terms and process for terminating the engagement. A CFP® certificant should consider whether he/she is providing financial services using the material elements of financial planning process. The terminology section of CFP Board's updated *Standards* does not define "material elements of the financial planning process." Again, under the definition of "financial planning," however, the *Standards* note that a certificant may determine when he/she is providing services using material elements of the financial planning process by considering the following criteria:

- 1) The client's understanding and intent in engaging the certificant.
- 2) The degree to which multiple financial planning subject areas are involved.
- 3) The comprehensiveness of data gathering.
- 4) The breadth and depth of recommendations.

Using the criteria above to determine material elements of the financial planning process does not involve reviewing the six steps of the financial planning process alone. The criteria above concern the integration of the six steps with the financial planning subject areas.

When determining whether a financial planning engagement exists, the entirety of a client relationship should be examined. These questions may guide the determination:

- Is the certificant involving the steps of the financial planning process?
- How many financial planning subject areas are involved with meeting the client's goals?
- With respect to the services provided, what was communicated to the client?
- Did the certificant consider the criteria for providing services using the material elements of financial planning process? [See FAQ's 6, 8, 31 and 32]

In general, once a CFP® certificant has established a financial planning relationship with a client, all future services to that client by that CFP® certificant are likely to be considered by CFP Board to be part of the financial planning engagement. However, the facts and circumstances of each situation, including the understanding and agreement of the parties, are key factors in CFP Board's determination of whether the CFP® certificant is engaged in financial planning or the material elements of the financial planning process.

The CFP® certificant is familiar with integrating the six steps of the financial planning process with the financial planning subject areas. [See "Terminology" section of the updated *Standards*] Other than when a CFP® certificant has been granted investment discretion by a client, once the CFP® certificant makes recommendations to the client, the client is responsible for accepting or rejecting those recommendations and for retaining and/or delegating implementation responsibilities. [See Practice Standard 500-1] The financial planning process calls for the client to make decisions on actions he or she will take. Where implementation of the strategies, services and/or products chosen is part of the financial planning engagement, the CFP® certificant must act in utmost good faith in a manner that he or she reasonably believes to be in the best interest of the client. [See Rule 1.4] If the CFP® certificant is engaged by the client to provide only implementation activities, the CFP® certificant and the client need to mutually define the extent to which the CFP® certificant will rely on information, analysis or recommendations provided by others. [See Practice Standard 500-1]

CFP Board does not advocate any particular business model or compensation arrangement. The updated *Standards* are compensation-neutral, and compliance with the updated *Standards* is possible for CFP® certificants with all types of compensation arrangements and business models. The fiduciary duty contained in the updated *Standards* does not preclude using brokerage accounts or financial product sales as solutions.

Q19: Is it possible for a client of a CFP® certificant to terminate the financial planning engagement with the CFP® certificant and still receive other services from the CFP® certificant?

A: It depends on whether a CFP® certificant is providing the future services and the nature of those services. In general, once a financial planning relationship with a CFP® certificant has been established, all future services provided by the CFP® certificant to the client are likely to be considered by CFP Board to be part of the financial planning process. It is important for CFP® certificants and clients to work together to develop a mutual understanding of the scope of the engagement. One important factor CFP Board will consider when determining whether activities are material elements of the financial planning process is the client's understanding and intent in engaging the CFP® certificant. For example, a client can enter into a written agreement with the CFP® certificant to limit the financial planning engagement to the first four steps of the financial planning process, i.e., the engagement ends with the CFP® certificant's recommendations. Whether subsequent interactions with the client constitute financial planning will depend on whether such services fall within CFP Board's definition of

financial planning or material elements of the financial planning process. The facts and circumstances of each situation are factors in CFP Board's determination of whether the CFP® certificant engaged in financial planning or the material elements of the financial planning process.

Q20: In situations where a client hires a CFP® certificant to implement financial planning recommendations prepared by another individual, will the CFP® certificant's implementation activities be considered financial planning or material elements of the financial planning process?

A: If a CFP® certificant implements financial planning recommendations made by another financial services professional, CFP Board will consider the level of specificity in the financial planning recommendations being implemented in determining whether the implementation activities are considered financial planning. If, for example, the recommendations are less specific – perhaps recommending a broadly-defined allocation strategy for retirement planning, education planning, estate planning and risk management – and require the CFP® certificant to provide wider-ranging recommendations on specific investments as part of the implementation process, the CFP® certificant's implementation activities would likely rise to the level of financial planning. It is important to note here that once a CFP® certificant has established a financial planning relationship with a client, all future services to that client by that CFP® certificant are likely to be considered by CFP Board to be part of the financial planning engagement. By contrast, if the client limits the engagement with the CFP® certificant to implementation activities only, and the recommendations set out an investment strategy with specific amounts allocated to specific asset classes, the CFP® certificant's actions in executing transactions based on the recommendations identified in the financial plan would likely not rise to the level of financial planning. The facts and circumstances of each situation are a key factor in CFP Board's determination of whether the CFP® certificant engaged in financial planning or material elements of the financial planning process.

The most important factor that CFP Board will consider in determining whether activities such as implementation rise to the level of financial planning is the client's understanding and intent in engaging the CFP® certificant. To reduce the possibility of misunderstanding between a CFP® certificant and his/her client, CFP Board recommends that all CFP® certificants enter into a written agreement with their clients, particularly where the scope of the engagement is limited and it becomes necessary to clearly define the services to be provided by the CFP® certificant. As explained in *Practice Standards* 500-1, "if the practitioner is engaged by the client to provide only implementation activities, the scope of the engagement shall be mutually defined ... This scope may include such matters as the extent to which the practitioner will rely on information, analysis or recommendations provided by others."

CFP Board encourages certificants who are unsure if a particular service or client relationship rises to the level of financial planning to embrace CFP Board's fiduciary standard and provide services in ways they believe are in the best interest of the client.

Q21: What responsibilities do firms have to ensure that their employees and affiliates who hold CFP® certification adhere to CFP Board's ethical standards?

A: CFP Board has authority only over the individuals to whom it has granted CFP® certification; firms or other entities not certified by CFP Board are not required to abide by its standards. Nevertheless, CFP Board understands and appreciates the responsibility firms undertake to hold their affiliates to high standards and to ensure they comply with their professional responsibilities. Many firms have made great efforts to assist their employees and affiliates who hold CFP® certification in complying with their obligations to CFP Board. CFP Board's updated Standards specifically note that a CFP® certificant will be considered in compliance with CFP Board's standards if the certificant's employer has completed the required actions on his or her behalf. [See Introduction]

Some firms may choose to set up separate compliance procedures for their employees and affiliates who hold CFP® certification. Other firms may choose to bring their compliance procedures in line with the updated Standards and require all their employees and affiliates to follow those procedures, even those who do not currently hold CFP® certification. The updated Standards were designed to help CFP® certificants provide a high level of ethical service to their clients, and CFP Board believes that clients will benefit from the practices outlined in its ethical standards, even if those ethical practices are conducted by people who do not hold CFP® certification.

Although it is difficult to make general statements about areas where a firm may want to adjust compliance procedures to bring them into compliance with CFP Board's updated Standards, there are some aspects of the updated Standards that firms may want to review in light of their current compliance procedures:

- 1) **Disclosures to Prospective Clients**
The updated Standards expand CFP Board's disclosure requirements to include prospective clients as well as current clients.
- 2) **Disclosure Requirements Related to Compensation and Conflicts of Interest**
Additional guidance for the disclosure of compensation and conflicts of interest is included in the updated Standards. [See Rules 1.2 and 2.2]
- 3) **Written Agreement for Financial Planning Engagements**
The updated Standards require four specific elements to be included in a written agreement governing any financial planning services. [See Rule 1.3 and Q14, above]
- 4) **Fiduciary Duty of Care for Financial Planning Services**
CFP Board requires that CFP® certificants who provide financial planning or material elements of the financial planning process treat their clients with the duty of care of a fiduciary, as defined by CFP Board ("one who acts in utmost good faith, in a manner he or she reasonably believes to be in the best interest of the client."). [See Rule 1.4]

Once the services provided to an individual client become financial planning or material elements of the financial planning process, that client relationship has become a financial planning engagement. All future services to that client are likely to be considered by CFP Board to be part of that financial planning engagement. However, the facts and circumstances of each situation, including the understanding and agreement of the parties, are factors in CFP Board's determination of whether the CFP® certificant is engaged in financial planning or the material elements of the financial planning process.

While certain elements of the updated Standards are different from the requirements of other financial services regulatory bodies, CFP Board does not believe its standards are incompatible with the current standards of those regulatory bodies.

Q22: Is a CFP® certificant who provides financial planning services more likely to be disciplined by CFP Board than a CFP® certificant who does not provide financial planning services?

A: No. The updated Standards apply to all CFP® certificants, regardless of the type of services a certificant provides to clients, and only four of the 30 Rules in the *Rules of Conduct* are limited in scope to certificants who provide financial planning services. The updated Standards do require CFP® certificants who provide financial planning services to provide specific written documentation to a client and to provide services with the duty of a fiduciary, as defined by CFP Board, but the updated Standards do not state that violations of Rules limited in scope to financial planning services merit harsher discipline than violations of Rules that relate to services other than financial planning.

CFP Board's *Disciplinary Rules and Procedures* provide CFP® certificants with a fair and expeditious disciplinary process whenever CFP Board discovers information about a certificant's potentially unethical conduct. As part of the process, CFP Board provides a fair and objective investigation into each allegation and determines the merits of the allegations based on the evidence provided. The Disciplinary and Ethics Commission (Commission) issues discipline only when the evidence in a specific case substantiates a finding that CFP Board's standards have been violated.

The events and context of a situation will affect each of the decisions the Commission makes for a particular case. The Commission considers the severity of a violation and any aggravating or mitigating factors when determining what type of discipline should be issued, not whether the violation relates to a Rule limited in scope to financial planning services.

Q23: Do the updated Standards increase liability for CFP® certificants?

A: Liability in the financial services business exists regardless of whether one's services can be considered financial planning. CFP Board believes that compliance with the updated Standards, including the requirement that financial planning services be provided with the duty of a fiduciary, is a way to reduce liability.

The updated Standards were developed to be an enforceable set of requirements that CFP Board can apply to those who hold CFP® certification; they are not meant to be used for third party liability. [see Introduction] CFP

Board nevertheless understands that claimants may attempt to introduce aspects of CFP Board's standards in litigation and arbitration proceedings. Just as it would be inappropriate for CFP Board to interpret or enforce rules established by FINRA, the SEC or state regulators, it would be inappropriate for other bodies to interpret or enforce CFP Board's rules. When CFP Board is made aware of attempts by other bodies to enforce CFP Board's rules against a CFP® certificant, CFP Board can provide the CFP® certificant with documentation that explains CFP Board's jurisdiction over its own rules and affirming that the rules are not meant to create liability to anyone other than CFP Board. Situations like these have occurred in the past with CFP Board's current standards, but CFP Board does not have information showing that any court or arbitration panel has in fact made findings of violations of CFP Board rules.

Consumers seek advice they can trust. They deserve disclosure, competence, professionalism and ethics. Those elements are an integral part of the updated Standards. CFP Board believes liability is reduced when certificants and their clients have a clear and mutual understanding of their relationship and the services within that relationship. The updated Standards include rules designed to enhance that mutual understanding.

CFP Board encourages the public to seek out the services of CFP® certificants from the wide variety of choices they have among financial service providers precisely because CFP® certificants are held to high standards of competence, professionalism and ethics. We are confident that firms and certificants can and will embrace and develop practices that comply with the updated Standards. It is the right thing to do for the consumer.

Q24: How do the updated Standards relate to CFP® certificants who provide clients principal-trade transactions?

A: CFP Board is neutral as to the type of investment or planning strategies a CFP® certificant may use to achieve a client's objectives and goals, as long as those strategies comply with CFP Board's standards and with any applicable federal or state regulatory requirements related to the activities they undertake. [See Rule 5.1] CFP® certificants may engage in principal-trade transactions, provided that the CFP® certificant is allowed to make principal-trade transactions under applicable federal and state regulations and that the CFP® certificant complies with any additional requirements under CFP Board's updated Standards that may or may not be part of the requirements of federal or state regulatory requirements, such as the following:

- 1) Disclose conflicts of interest; [See Rule 2.2]
- 2) Assess whether any particular recommendation to purchase or sell financial products is suitable for the client; [See Rule 4.5]
- 3) Exercise reasonable and prudent professional judgment; [See Rule 4.4]
- 4) Perform professional services with dedication to the lawful objectives of his or her employer and in accordance with the updated Standards; [See Rule 5.1]
- 5) Place the interest of the client ahead of his or her own at all times. [See Rule 1.4]

If a CFP® certificant implements principal-trade transactions as part of a financial planning engagement or the material elements of the financial planning process, Rules 1.2, 1.3, 1.4 and 2.2 set out additional requirements for written documentation and require that the CFP® certificant provide services with the duty of care of a fiduciary, as defined by CFP Board. [See Q3 above]

Q25: How do the updated Standards relate to CFP® certificants who provide services that include recommending or transacting the proprietary financial products of the CFP® certificant's employer or principal?

A: The updated Standards apply to all CFP® certificants, regardless of the type of investment and planning strategies a CFP® certificant may use to achieve a client's objectives and goals. All financial product recommendations made by CFP® certificants, including recommendations related to the proprietary financial products of the CFP® certificant's employer or principal, must comply with the requirements of the updated Standards, including the following:

- 1) Assess whether any particular recommendation to purchase or sell financial products is suitable to the client; [See Rule 4.5]
- 2) Exercise reasonable and prudent professional judgment; [See Rule 4.4]
- 3) Perform professional services with dedication to the lawful objectives of his or her employer and in accordance with the updated Standards; [See Rule 5.1]
- 4) Comply with applicable regulatory requirements governing professional services provided to clients; and [See Rule 4.3]

- 5) Place the interest of the client ahead of his or her own. [See Rule 1.4]

CFP® certificants who recommend the purchase or sale of a proprietary financial product of the CFP® certificant's employer or principal should also ensure that they comply with the disclosure requirements contained in the updated Standards, which include disclosure of the following information:

- 1) An accurate and understandable description of the compensation arrangements being offered, including:
 - i. Information related to costs and compensation to the CFP® certificant and/or the CFP® certificant's employer, and
 - ii. Terms under which the CFP® certificant and/or the CFP® certificant's employer may receive any other sources of compensation, and if so, what the sources of these payments are and on what they are based. [See Rule 2.2(a)]
- 2) A general summary of likely conflicts of interest, which would include, but not be limited to, the fact that the CFP® certificant may recommend the proprietary financial products of his or her employer or principal. [See Rule 2.2(b)]
- 3) Any information that could reasonably be expected to materially affect the client's decision to engage the CFP® certificant that the client might reasonably want to know in establishing the scope and nature of the relationship, including but not limited to information about the CFP® certificant's areas of expertise. [See Rule 2.2(c)]
- 4) Contact information for the CFP® certificant and, if applicable, the CFP® certificant's employer. [See Rule 2.2(d)]

If the transactions in proprietary financial products are made as part of services that include financial planning or material elements of the financial planning process, CFP Board expects any financial planning services provided to be the best services and recommendations available, given the CFP® certificant's reasonable professional judgment and any limitations placed on the CFP® certificant by any particular business framework or regulatory requirement. In such situations, the CFP® certificant would be expected to disclose the limitations to the client in writing, including any contractual or agency relationships that have potential to affect the client and any terms under which proprietary products may be offered. [See Q9 above; see also Rule 1.2]

These guidelines apply both to 1) CFP® certificants who work as an employee or agent of a firm that allows transactions in that firm's proprietary financial products as one option for clients and 2) CFP® certificants who work as an employee or agent of a firm that allows transactions only in that firm's proprietary financial products.

Q26: Does a CFP® certificant who is not providing financial planning or using the financial planning process need to provide clients or prospective clients with written disclosure documents?

A: No. *Rules of Conduct* Rule 2.2 identifies five disclosure items that every CFP® certificant must disclose to clients and prospective clients. Certificants, however, are not required to give clients or prospective clients those disclosures in writing unless they are providing financial planning services or material elements of the financial planning process.

Q27: When should a CFP® certificant send out disclosure documents to clients?

A: The *Rules of Conduct* do not specify a timeframe for sending out disclosure documents. CFP Board believes a certificant's best practice is to disclose such items when the client requests such information or before any agreement is signed or prior to the execution of any transaction where the client is expected to pay for a service or product. If information previously disclosed to a client changes, Rule 2.2 requires that those changes be disclosed to the client in a timely manner.

CFP Board understands that certificants may be engaged in providing clients financial services that fall under different regulatory environments. Each regulatory environment may require certificants and their employers to provide disclosures at different points during a client relationship. CFP Board does not advocate any particular business model or any form of compensation and does not intend to replace the regulatory requirements for disclosing items to clients. Certificants are reminded to adhere to Rule 1.4 when dealing with clients in all capacities.

Q28: Rule 2.2 requires a CFP® certificant to disclose “an accurate and understandable description of the compensation arrangements being offered.” How does CFP Board define “information related to costs and compensation to the certificant and/or the certificant’s employer?” What does CFP Board mean by “any other sources of compensation?”

A: CFP Board does not advocate any particular business model or form of compensation. CFP Board understands that certificants may be engaged in providing clients financial services that fall under different regulatory environments. Each regulatory situation may restrict the ways certificants and their employers receive compensation and require that compensation be disclosed in a manner reflecting specific regulations. CFP Board does not intend to replace the regulatory requirements for receiving compensation or disclosing it to clients. Certificants are reminded to adhere to Rule 1.4 when dealing with clients in all capacities.

CFP Board also recognizes that certificants or their employers may incur certain costs with the delivery of financial planning or the provision of other financial services. Due to the many different ways of providing services and collecting compensation, this FAQ may not specifically cover all types of possible compensation arrangements. As a guide, however, the intent of the rule is to disclose all types or categories of expenses the client pays including firm or adviser expenses that will be passed on to the client as an additional charge.

Examples of other sources of compensation that must be disclosed include the following, when applicable:

- Trading fees;
- Ticket charges;
- 12b-1 fees;
- Cash bonuses for selling certain financial or insurance products;
- Administrative or management fees on mutual funds or variable annuities as outlined in the prospectus;
- Other trailer fees for selling financial or insurance products; or
- Compensation received from wrap-fee programs.

Also, the CFP® certificant is not required to provide a specific dollar or percentage amount to be received for services rendered. CFP Board understands that frequently the exact cost to the client is not known until a series of decisions or actions occur. Certificants are reminded that when the information is available and the client requests, certificants must make that information available to the client.

Q 29: Will CFP Board provide sample agreements and disclosures that CFP® certificant can use with their clients?

A: Yes. CFP Board has updated its sample disclosure forms and created a new, sample agreement form that CFP® certificants may use with their clients.

The updated Form OPS (Other than Financial Planning Services) and new Form FPD (Financial Planning Disclosure Document) may help certificants assemble a document containing the information required to be disclosed under Rules 1.2 and 2.2 of the *Rules of Conduct*.

Form FPD is for certificants who provide financial planning services or material elements of the financial planning process; Form OPS is for certificants who provide services that do not rise to the level of financial planning.

Form FPDA (Financial Planning Disclosure Document and Agreement) may help certificants who provide financial planning services or material elements of the financial planning process create a document that satisfies the written agreement requirements of Rule 1.3 as well as the disclosure obligations of Rules 1.2 and 2.2.

CFP Board understands that employers of certificants who provide services other than financial planning may require certificants to have their clients sign a document or disclaimer stating that the certificant is not providing financial planning services. Regardless of any document or disclaimer signed by a client, CFP Board reserves the right to make an independent determination of whether the certificant’s services rise to the level of financial planning based on CFP Board’s *Rules of Conduct*. If CFP Board determines that the certificant provided financial planning and the terms required under Rule 1.3 were omitted or a written agreement was not provided, CFP Board may enforce Rule 1.3 against the certificant. Similarly, Rules 1.2 and 2.2 may be enforced if CFP Board determines that the certificant provided financial planning without the written disclosures required by the *Rules of Conduct*.

Q30: Does CFP Board expect CFP® certificants to hand deliver disclosure documents, or can the documents be posted or delivered on a certificant's or the certificant's employer's Web site?

A: Rules 1.2 and 2.2 require CFP® certificants to disclose certain information to clients or prospective clients. The Rules allow for any form of delivery to clients. Under Rule 1.2, if the disclosures are made in writing, the certificant must encourage the prospective client or client to review the information and offer to answer any questions from the client or prospective client. CFP Board believes best practice is to disclose such items upon request; before any agreement is signed; or prior to any transaction where the client is expected to pay for a service or product. Notifying the client or prospective client that the disclosure information can be found on an employer's Web site probably does not meet the standard of care required under Rule 1.4, which obligates the certificant to place the client's interest ahead of the certificant's interest.

Q31: How many elements of the financial planning process can a certificant provide without having those activities constitute "material elements of the financial planning process"?

A: The terminology section of CFP Board's updated *Standards* does not define "material elements of the financial planning process." Under the definition of "financial planning," however, the *Standards* provide guidance that a certificant may use to determine when he/she is providing services using material elements of the financial planning process by considering the following criteria:

1. The client's understanding and intent in engaging the certificant.
2. The degree to which multiple financial planning subject areas are involved.
3. The comprehensiveness of data gathering.
4. The breadth and depth of recommendations.

As previously stated in these FAQs, using the above criteria to determine material elements of the financial planning process does not involve reviewing the six steps of the financial planning process alone. The criteria focus on the integration of the six steps with multiple financial planning subject areas. A financial planning subject area is not synonymous with a product or service module as may be used in the financial services industry. A module may encompass a single or multiple financial planning subject area(s). If a complaint is lodged against a certificant based on his/her services using material elements of the financial planning process, CFP Board will investigate the matter based, in part, on the financial planning subject areas. The use of modules may provide relevant information helpful in CFP Board's determination.

As used in our example under Question 8 of these FAQs, if a broker who is a CFP® certificant employs all six steps of the financial planning process to recommend a brokerage transaction or a series of brokerage transactions only, the CFP® certificant would probably not be considered providing services that involve material elements of the financial planning process. The certificant, however, may inadvertently provide financial planning services if the same certificant acts in such a manner where the client reasonably believes and intends the certificant to provide financial planning. [See FAQ's 6, 8, 18 and 32] To prevent such a situation from happening, the *Standards* require the certificant and the client to mutually agree upon the services to be provided. [See Rule 1.1] For a certificant who is not providing financial planning, this agreement does not need to be in writing, but it may be a helpful best practice to do so.

Under Question 8 of these FAQs, CFP Board provides an example of an activity that may be considered providing services that employ material elements of the financial planning process: conducting detailed data-gathering regarding multiple aspects of a client's financial situation. This activity may rise to the level of material elements of the financial planning process if the certificant's activities include the following:

- Employing multiple financial planning subject areas to analyze a client's financial situation;
- Gathering information about a client's entire financial situation, including goals;
- Recommending a broad financial plan requiring a depth of technical knowledge to execute the plan; and
- Mutually defining the scope of the engagement with a client where the client understands and intends to engage the certificant in financial planning.

Given the in-depth process used in this example, the above-mentioned activity would probably be considered providing services employing material elements of the financial planning process.

Q32: How many financial planning subject areas can a certificant address with a client without reaching the level of “material elements of the financial planning process”?

A: The terminology section of CFP Board’s updated *Standards* does not define “material elements of the financial planning process.” Under the definition of “financial planning,” however, the *Standards* note that certificants may determine when they are providing services using the material elements of the financial planning process by considering, among other things, the degree to which multiple financial planning subject areas are involved. CFP Board believes that services involving a single subject area alone and applying the financial planning process to that single subject area are not likely to be considered material elements of the financial planning process. However, if a certificant uses multiple subject areas and integrates those subject areas with the steps of the financial planning process at one time or over a period of time, the certificant may be providing services employing material elements of the financial planning process. It will not be considered acceptable for a certificant to employ one product or service module, as may be used by firms in the financial services industry, at a time in order to avoid having the total service provided as services using material elements of the financial planning process. Certificants should consider whether the client’s understanding and intent in engaging the certificant give the client reason to believe the services are financial planning, and certificants should also consider the comprehensiveness of data gathering and the breadth and depth of recommendations. [See FAQ’s 6, 8, 18 and 31]

Q33: I have a specific question not addressed in this FAQ. How can I request an answer to my question?

A: CFP Board welcomes questions about specific aspects of the updated *Standards* and their application to specific situations. The question of whether a client relationship involves financial planning is one that is determined on a case-by-case basis, but we fully understand that no individual wants to be CFP Board’s test case for application of a particular standard.

Because it would be impossible to provide guidelines for every possible situation related to financial planning, CFP Board’s Disciplinary and Ethics Commission is in the process of developing guidance documents to assist CFP® certificants in complying with the *Standards*. To submit a particular situation for the Commission to consider, or to submit questions about specific aspects of the updated *Standards* and their application to specific situations, contact CFP Board at standards@CFPBoard.org.

CFP Board will consider all questions submitted and draft a response where it determines that interpretation of the *Standards* is needed. For responses that it believes would be helpful to all CFP® certificants, CFP Board will publish its response in CFP Board’s newsletters and on CFP Board’s Web site.

Send your questions and requests for guidance documents to CFP Board at standards@CFPBoard.org.