

**FPAM Disciplinary  
Rules & Procedures  
For CFP Professionals**



## **FPAM's Model Disciplinary Rules and Procedures**

FPAM investigates allegations of misconduct received or discovered about a CFP professional that may indicate a violation of FPAM's Code of Ethics and Professional Responsibility or Financial Planning Practice Standards, and discipline a CFP professional for violations of these standards through Disciplinary Rules and Procedures for CFP Professionals.

## **FPAM's Vision**

To establish financial planning as a recognized profession through the promotion of excellence in financial planning for the benefit of all Malaysians

## Table of Contents

ARTICLE 1: GROUNDS FOR DISCIPLINE	1
ARTICLE 2: INVESTIGATING OFFICER	2
2.1 Function and Jurisdiction of the Investigating Officer .....	2
2.2 Powers and Duties of the Investigating Officer .....	2
2.3 Disqualification .....	3
ARTICLE 3: INVESTIGATION	4
3.1 Commencement .....	4
3.2 Procedures for Investigating a Complaint .....	4
3.2.1 Dismissal .....	4
3.2.2. Pursuing an Investigation .....	4
3.3 Cooperation .....	4
3.3 Extension of Time .....	4
3.4 Probable Cause Review .....	5
ARTICLE 4: HEARING PANEL	6
4.1 Notice .....	6
4.2 Appointment of Chairperson .....	6
4.3 Hearing Panel Creation .....	6
4.4 Administration .....	6
ARTICLE 5: GENERAL RULES FOR HEARINGS	7
ARTICLE 6: HEARINGS	8
6.1 Notice of Hearing .....	8
6.1.1 Response .....	8
6.1.2 Failure to Respond .....	8
6.2 Conduct of Hearing .....	8
6.3 Representation .....	8
6.4 Hearing Procedure .....	9
6.5 Pre-Hearing Discovery .....	9
6.6 Withdrawal of Complaint .....	9

ARTICLE 7: SETTLEMENT	10
7.1 Offer of Settlement .....	10
7.2 Acceptance of Offer.....	10
7.3 Rejection of Offer .....	10
7.4 Counter Offer .....	11
7.5 Publication.....	11
ARTICLE 8: DECISION OF THE HEARING PANEL	12
8.1 Decision .....	12
8.2 Discipline.....	12
8.3 Notice of Decision .....	12
8.4 Appeal of Decision .....	12
ARTICLE 9: FORMS OF DISCIPLINE	13
9.1 Public Letter of Admonition .....	13
9.2 Suspension .....	13
9.3 Revocation.....	13
ARTICLE 10: APPEALS	14
10.1 Right to Appeal.....	14
10.2 Notice of Appeal .....	14
10.3 Appeals Panel.....	14
10.4 Standard of Review .....	14
10.5 Notice of Appeal Hearing.....	14
10.6 Appellant's Brief.....	14
10.7 Respondent's Brief .....	15
10.8 Presentations at Hearing .....	15
10.9 Decision and Order.....	15
10.10 Final Decision .....	15
ARTICLE 11: INTERIM SUSPENSION	16
11.1 Issuance of an Order to Show Cause.....	16
11.2 Service an Order to Show Cause .....	16
11.3 Response to an Order to Show Cause.....	16
11.4 Failure to Respond to the Order to Show Cause .....	16
11.5 Show Cause Hearing .....	16

11.6 Interim Suspension .....	17
11.7 Automatic Reinstatement upon Reversal of Conviction or Suspension .....	17
11.8 Publication .....	17
ARTICLE 12: COSTS .....	18
12.1 Investigation and Defense Costs .....	18
12.2 Hearing or Appeal Costs .....	18
ARTICLE 13: CONFIDENTIALITY OF PROCEEDINGS .....	19
13.1 Confidentiality .....	19
13.2 Compulsory Disclosure .....	19
13.3 Consent .....	19
13.4 Publication .....	19
ARTICLE 14: COMPLAINANT .....	20
14.1 Courtesy .....	20
14.2 Complainant’s Role in Hearings .....	20
ARTICLE 15: NOTICE .....	21
15.1 Delivery .....	21
15.2 Deemed Delivery .....	21
15.3 Time Period .....	21
15.4 Proof .....	21
15.5 Address .....	21
ARTICLE 16: CONVICTION OF A CRIME OR PROFESSIONAL SUSPENSION .....	22
16.1 Proof of Conviction or Professional Suspension .....	22
16.2 Duty to Report Criminal Conviction or Professional Suspension .....	22
16.3 Beginning Disciplinary Proceedings upon Notice of Conviction or Professional Suspension .....	22
ARTICLE 17: REQUIRED ACTION AFTER REVOCATION OR SUSPENSION .....	23
17.1 Use of the CFP Marks .....	23
ARTICLE 18: REINSTATEMENT AFTER DISCIPLINE .....	24
18.1 Revocation .....	24
18.2 Suspension .....	24
18.3 Investigation .....	24
18.4 Successive Petitions .....	24

18.5 Reinstatement Fee .....	24
GLOSSARY OF TERMS	25





## ARTICLE 1: GROUNDS FOR DISCIPLINE

Misconduct by a CFP professional, performed individually or with others, is subject to disciplinary action. Misconduct includes the following, regardless of whether or not the act or omission occurred during a financial planner-client relationship:

1. Any act or omission that violates the provisions of the Financial Planner Code of Ethics and Professional Responsibility, Rules of Conduct or Financial Planning Practice Standards.
2. Any act or omission that violates the criminal laws of Malaysia or any other territory (a criminal conviction is not a prerequisite for disciplinary proceedings and acquittal in a criminal proceeding does not bar a disciplinary action by FPAM).
3. Any act that is the basis for Professional Suspension (a Professional Suspension is not a prerequisite for disciplinary proceedings and dismissal of charges in a Professional Suspension does not bar a disciplinary action by FPAM).
4. Any act or omission that violates FPAM's Disciplinary Rules and Procedures for CFP Professionals or an order of discipline issued by FPAM.
5. Failure to respond, without good cause, to a request by, or obstruction of, FPAM's Investigating Officer, Professional Review Committee or staff while performing their duties.
6. Any false or misleading statement made to FPAM's Investigating Officer, Professional Review Committee or staff.
7. Any other acts or omissions amounting to misconduct that could damage the reputation of the CFP Marks.

The acts or omissions listed above are not exclusive; other acts or omissions amounting to unethical or unprofessional conduct may lead to disciplinary action by FPAM.

## ARTICLE 2: INVESTIGATING OFFICER

FPAM appoints an Investigating Officer to investigate Complaints according to the process outlined in Article 3. Where disciplinary action is warranted, the Investigating Officer refers the matter to a Hearing Panel of the Professional Review Committee (see Article 4). The Investigating Officer may participate in the Hearing Panel's review of the Complaint or in an Appeal of the Hearing Panel's decision (see Article 10). No member of the Professional Review Committee or FPAM's governing body may serve as the Investigating Officer.

### 2.1 Function and Jurisdiction of the Investigating Officer

The Investigating Officer is responsible for investigating, reviewing and taking initial action on alleged violations of the Code of Ethics and Professional Responsibility, Rules of Conduct or Financial Planning Practice Standards.

### 2.2 Powers and Duties of the Investigating Officer

The Investigating Officer has the authority to:

1. Receive a Complaint from any person or entity.
2. Make a Complaint when no third-party allegation of misconduct exists, but when the Investigating Officer reasonably believes that circumstances indicate potential misconduct.
3. Investigate all Complaints fully.
4. Interview the Complainant, the CFP professional(s) concerned and others.
5. Examine books, documents, records and other material relevant to the Complaint.
6. Review files maintained on CFP professional by FPAM.
7. Engage professionals, experts and others to assist with an investigation or serve on a Hearing Panel.
8. Prepare a Complaint for review by the Hearing Panel.
9. Bring a Complaint before a Hearing Panel and provide information obtained through the investigation to the Panel.
10. Engage counsel or other qualified individuals to act on the Investigating Officer's behalf in a Hearing.
11. Maintain records of all investigations.
12. Periodically report on his or her activities to FPAM.
13. Develop amendments to FPAM's Disciplinary Rules and Procedures for review and approval by the Professional Review Committee.
14. Develop processes or procedures for investigating Complaints for review and approval by the Professional Review Committee.

### 2.3 Disqualification

The Investigating Officer does not participate in any proceeding in which he or she, a member of his or her immediate family or a member of his or her employer, has any interest, or where such participation would involve a conflict of interest or the appearance of impropriety.

## ARTICLE 3: INVESTIGATION

### 3.1 Commencement

Proceedings involving potential violations of the Code of Ethics and Professional Responsibility, Rules of Conduct or Financial Planning Practice Standards begin when a person makes a written Complaint to the Investigating Officer, or at the request of FPAM. The Investigating Officer investigates the underlying facts of the case to determine whether to proceed.

### 3.2 Procedures for Investigating a Complaint

Upon receiving a Complaint, the Investigating Officer reviews the Complaint to determine its merits.

#### 3.2.1 Dismissal

The Investigating Officer dismisses any Complaint that contains allegations that, even if true, would not violate the provisions of the Code of Ethics and Professional Responsibility, Rules of Conduct or Financial Planning Practice Standards. The Investigating Officer notifies the CFP professional and the Complainant in writing of the reasons for the dismissal.

#### 3.2.2. Pursuing an Investigation

Where the Investigating Officer determines that a Complaint includes a proper allegation of misconduct and a formal investigation is warranted, the Investigating Officer provides written notice to the CFP professional that a formal investigation has begun. The notice describes the substance of the Complaint and asks the CFP professional to provide, within 30 days, a detailed written response to the Investigating Officer along with copies of Complaint-related documents and files in the CFP professional's possession. The Investigating Officer notifies the Complainant that a formal investigation has begun, and provides information about the investigation process and procedures.

### 3.3 Cooperation

A CFP professional under investigation is required to cooperate fully with, and provide relevant documents and records in his or her possession, to the Investigating Officer. Failure to cooperate may result in disciplinary action under this Article 3. If the CFP professional fails to respond within 30 days to the Investigating Officer's written notice, the Investigating Officer may immediately refer the Complaint to a Hearing Panel for review.

#### 3.3 Extension of Time

At his or her discretion, the Investigating Officer may extend the time for a CFP professional to respond to a Complaint.

### 3.4 Probable Cause Review

After receiving the CFP professional's response, the Investigating Officer reviews the response to determine whether it is more likely than not that grounds for disciplining the CFP professional exist (i.e., there is probable cause for discipline). The Investigating Officer makes this determination no later than 120 days after receiving the CFP professional's response. In exceptional circumstances, the Investigating Officer may extend the probable cause review timeframe by providing written notice to the CFP professional and the Complainant.

Once the review is complete, the Investigating Officer either:

- (1) Dismisses the allegations as not warranting further action;
- (2) Dismisses the allegations with a letter of caution to the CFP professional recommending remedial or other action; or
- (3) Refers the Complaint to a Hearing Panel.

## ARTICLE 4: HEARING PANEL

### 4.1 Notice

Where the Investigating Officer determines that grounds for discipline exist and a Complaint should be referred to a Hearing Panel, the Investigating Officer, within 30 days of the probable cause determination, provides written notice outlining the details of the Complaint to the Professional Review Committee and requests that a Hearing Panel be convened. The Investigating Officer provides a copy of the notice to the Complainant and the CFP professional.

### 4.2 Appointment of Chairperson

FPAM staff arranges a meeting of the Professional Review Committee, which, without reference to the facts or merits of the case, appoints one of its members to be the Chairperson of the Hearing Panel. Following appointment of the Hearing Panel Chairperson, members of the Professional Review Committee have no further role in the Hearing process (except where required to participate in an Appeal under Article 10.)

### 4.3 Hearing Panel Creation

A Hearing Panel consists of three people: the Chairperson and two members chosen by the Chairperson and Affiliate staff from a list of qualified panelists maintained by FPAM staff.

### 4.4 Administration

After the Hearing Panel members have been selected, FPAM staff chooses a date and location to hear the Complaint. FPAM staff is responsible for all aspects of administering the Hearing process, including maintaining records of all Hearings and decisions and maintaining a current list of qualified individuals to serve as Hearing Panel members.

## ARTICLE 5: GENERAL RULES FOR HEARINGS

The following general rules apply to Hearing Panel and Appeal Panel proceedings:

1. The Chairperson establishes appropriate procedures for the Hearing, consistent with these Disciplinary Rules and Procedures.
2. The Chairperson may admit any evidence relevant to the proceedings.
3. The Chairperson may impose reasonable time limits during the proceedings.
4. The Chairperson may make orders or give directions in proceedings as he or she considers proper to maintain order or prevent abuses of the Panel's processes.
5. A record of all Hearings is made, and a transcript is provided upon request at the expense of the requesting party.
6. The Chairperson may adjourn a Hearing at any time.
7. The Chairperson may engage counsel or experts to assist the Panel in hearing a Complaint and in making its decision.
8. The Chairperson may extend or abridge the time for service, filing or Delivery of any document based on these Disciplinary Rules and Procedures.
9. The Chairperson has the discretion, provided that the fairness of the Hearing is not impaired, to hold a Hearing by telephone conference call or video conference.
10. Unless otherwise ordered by the Chairperson and except for the presence of the Complainant, Hearings are closed to the public.

## ARTICLE 6: HEARINGS

### 6.1 Notice of Hearing

After Affiliate staff has arranged the time and place for a Hearing, FPAM staff provides a written Notice of Hearing to the Investigating Officer, CFP professional, Complainant and members of the Hearing Panel. The Notice of Hearing provides details of the evidence that will be used by the Investigating Officer at the Hearing, including, where applicable, names of witnesses. FPAM staff serves the Complaint upon the CFP professional in person or by a service that provides proof of Delivery to the last known address of the CFP professional (see Article 15).

#### 6.1.1 Response

Within 30 days of receiving the Notice of Hearing, the CFP professional submits a written response to the Complaint (the "Response") to FPAM staff. FPAM staff includes copies of the Response in the materials provided to the Hearing Panel prior to the Hearing. The Response includes the CFP professional's explanation of the circumstances and his or her conduct. The Response also includes additional information the CFP professional intends to provide to the Hearing Panel, the name and address of any witness(es) the CFP professional intends to call at the Hearing, and, where applicable, the contact information of counsel representing the CFP professional. FPAM staff delivers copies of the Response to the Complainant, the Investigating Officer and the Hearing Panel.

#### 6.1.2 Failure to Respond

If the CFP professional fails to file a Response within 30 days of receiving the Notice of Hearing, the Hearing Panel may suspend the CFP professional's right to use the CFP Marks until he or she files a Response or until the Hearing Panel has an opportunity to rule on the merits of the Complaint. FPAM staff notifies the CFP professional of the Interim Suspension

### 6.2 Conduct of Hearing

The Chairperson serves as the presiding officer of the Hearing. The Investigating Officer presents the Complaint and represents FPAM's interests at the Hearing. Prior to the Hearing, the members of the Hearing Panel do not discuss any aspect of the matter before the Hearing Panel with any party (including other members of the Hearing Panel). However, the Hearing Panel may engage counsel or experts to assist it in preparing for the Hearing. The Investigating Officer does not discuss any aspect of the matter with members of the Hearing Panel prior to the Hearing.

### 6.3 Representation

The CFP professional has the right to be represented by counsel, to invite any witness(es), to introduce evidence, to make submissions and to question any witness(es).



#### 6.4 Hearing Procedure

Since the Hearing is a fact-finding process, rules of procedure and evidence applicable in a court of law do not need to be followed. At the discretion of the Chairperson, the Hearing Panel may use such rules as a guide if it believes the rules are appropriate. Proof of misconduct by the CFP professional is established by a preponderance of the evidence. The Investigating Officer may not introduce any information on the CFP professional from FPAM's files related to prior investigations or discipline.

#### 6.5 Pre-Hearing Discovery

The Hearing Panel may request Discovery of a CFP professional's file with FPAM only after it has received a Complaint against that CFP professional. The CFP professional has the right to obtain documents in his or her file that are not privileged and that are relevant to the Complaint before the Hearing Panel. The CFP professional makes requests for copies of FPAM's documents to FPAM staff in writing. FPAM staff releases information contained in a CFP professional's disciplinary file to the CFP professional with the understanding of the CFP professional that the materials are to be used only for purposes directly connected to the matter before the Hearing Panel.

#### 6.6 Withdrawal of Complaint

At any time before the Hearing, the Investigating Officer may withdraw the Complaint before the Hearing Panel. If the Investigating Officer withdraws the Complaint, he or she notifies the Hearing Panel, Complainant, FPAM staff and the CFP professional.

## ARTICLE 7: SETTLEMENT

A CFP professional against whom proceedings are pending may, after a Hearing Panel receives the Complaint and before final action by the Hearing Panel, make an Offer of Settlement in exchange for an agreed upon discipline or action. The CFP professional submits the Offer of Settlement in writing to the Investigating Officer, who forwards the Offer of Settlement to the Hearing Panel and Affiliate staff. An Offer of Settlement suspends any proceedings that are in process.

### 7.1 Offer of Settlement

Whether the Hearing Panel accepts an Offer of Settlement depends on the nature of the proceedings and the public interest. The CFP professional submits the Offer of Settlement in writing at least 30 days prior to the Hearing Panel meeting. A CFP professional may submit only one Offer of Settlement during a disciplinary proceeding. The Offer of Settlement should not be frivolous or propose an action inconsistent with the seriousness of the violations alleged in the proceedings, and should contain reasonable details of:

1. The act, practice or omission the CFP professional is alleged to have committed.
2. The principle, rule, regulation or statutory provision which the act, practice or omission allegedly violated.
3. The CFP professional's statement consenting to findings of fact and violations consistent with the statements contained in the Offer of Settlement.
4. The proposed action to be taken and a statement that the CFP professional consents to the proposed action.
5. A waiver of the CFP professional's right to appeal to the Professional Review Committee or the courts, or to otherwise challenge or contest the validity of the Order issued if the Offer of Settlement is accepted.

The Investigating Officer may negotiate a proposed Offer of Settlement with the CFP professional and recommend the Hearing Panel accept the Offer.

### 7.2 Acceptance of Offer

If the Hearing Panel accepts the CFP professional's Offer of Settlement, the disciplinary proceedings conclude as of the acceptance date of the Offer of Settlement. If the Offer of Settlement includes a penalty of revocation or suspension of the CFP professional's right to use the CFP Marks, the revocation or suspension becomes effective immediately upon the Hearing Panel's acceptance of the Offer of Settlement.

### 7.3 Rejection of Offer

If the Hearing Panel rejects the CFP professional's Offer of Settlement, the Offer of Settlement is deemed void and the matters raised in the Complaint are set for hearing with a new Hearing Panel, constituted in accordance with Article 4. The CFP

professional is not prejudiced in the new Hearing by the prior Offer of Settlement, and the Offer of Settlement is not considered by the new Hearing Panel.

#### 7.4 Counter Offer

The Hearing Panel may make a Counter Settlement Offer to the CFP professional modifying the proposed finding(s) of fact, violation(s) and/or proposed discipline. The CFP professional may accept or reject the Counter Settlement Offer. If the CFP professional rejects the Counter Settlement Offer, the Offer of Settlement and Counter Settlement Offer are deemed void and the matters raised in the Complaint are set for hearing with a new Hearing Panel. The CFP professional is not prejudiced by the prior Offer of Settlement or the Counter Settlement Offer, and neither is considered in determining the issues involved in the new proceedings.

#### 7.5 Publication

If the settlement proceedings result in a revocation, suspension or termination of the right to use the CFP Marks, FPAM publishes the outcome of the disciplinary action and identifies the CFP professional.

## ARTICLE 8: DECISION OF THE HEARING PANEL

### 8.1 Decision

The Hearing Panel either:

1. Determines that the Complaint is not proved by a preponderance of the evidence and dismisses the Complaint, either without merit or with caution; or
2. Determines that the Complaint is proved by a preponderance of the evidence and that discipline is warranted.

The decision is reached by a vote of the majority of the members of the Hearing Panel.

### 8.2 Discipline

Following a finding of misconduct by the CFP professional, the Hearing Panel determines the appropriate discipline, as provided in Article 9.

### 8.3 Notice of Decision

The Hearing Panel Chairperson provides a written decision to the CFP professional, Investigating Officer, Complainant and Affiliate staff within 30 days of the Hearing.

### 8.4 Appeal of Decision

The CFP professional or the Investigating Officer has 30 days following receipt of the Hearing Panel's written decision to deliver a written request for Appeal to FPAM staff following the procedures outlined in Article 10. If neither party appeals within 30 days, the decision of the Hearing Panel is final.

## ARTICLE 9: FORMS OF DISCIPLINE

Following a finding of misconduct, the Hearing Panel may order one or a combination of the following forms of discipline.

### 9.1 Public Letter of Admonition

The Hearing Panel may issue a Letter of Admonition against a CFP professional to reproach the CFP professional for his or her behavior. FPAM publishes the admonition.

### 9.2 Suspension

The Hearing Panel may order suspension of a CFP professional's right to use the CFP marks for a period of time not to exceed five years for individuals the Hearing Panel deems can be rehabilitated. FPAM publishes the suspension. CFP professionals who have their right to use the CFP marks suspended may qualify for reinstatement to use the CFP Marks, as provided in Article 18.

### 9.3 Revocation

The Hearing Panel may order permanent revocation of a CFP professional's right to use the CFP Marks. FPAM publishes the revocation.

## ARTICLE 10: APPEALS

### 10.1 Right to Appeal

Either the CFP professional or the Investigating Officer may appeal the decision of a Hearing Panel on the grounds there was a Clear Error in either (a) interpreting a provision of the Code of Ethics and Professional Responsibility, Rules of Conduct or Financial Planning Practice Standards, or (b) the facts before the Hearing Panel, such that the Hearing Panel would likely have reached a different decision except for that error.

### 10.2 Notice of Appeal

The party making the Appeal (the "Appellant") provides the other party (the "Respondent"), Hearing Panel and Affiliate staff with a written notice of the intent to appeal (the "Notice of Appeal"). Where the CFP professional is the Appellant, FPAM staff suspends the discipline imposed by the Hearing Panel immediately upon receipt of a Notice of Appeal, pending the outcome of the Appeal.

### 10.3 Appeals Panel

Upon receipt of a Notice of Appeal, FPAM staff arranges a meeting of the Professional Review Committee which, without reference to the facts or merits of the case, appoints a three-member panel (the "Appeals Panel") from its members. The Chairperson of the Hearing Panel is ineligible to sit on the Appeals Panel and is not present during the Professional Review Committee's consideration of the request for an Appeal. The Professional Review Committee appoints one member to the Appeals Panel as Chairperson, who is the presiding officer for the Appeal Hearing.

### 10.4 Standard of Review

The Appeals Panel affirms the findings of fact and discipline imposed by the Hearing Panel, unless the Appellant establishes, or the Appeals Panel finds, that there was a Clear Error in the Hearing Panel findings or discipline.

### 10.5 Notice of Appeal Hearing

FPAM staff chooses a date and location for the Appeal Hearing and notifies the Appellant, the Respondent, the Complainant and the members of the Appeal Panel.

### 10.6 Appellant's Brief

The Appellant delivers to FPAM staff, no later than 30 days prior to the Appeal Hearing, a written brief setting out the grounds for appeal and the relief sought. The brief is accompanied by a copy of the transcript of the Hearing Panel proceedings. FPAM staff delivers copies to the Respondent and the members of the Appeal Panel.

### 10.7 Respondent's Brief

The Respondent submits a written response to the Appellant's brief to FPAM staff no later than 15 days prior to the Appeal Hearing. FPAM staff delivers copies to the Appellant and members of the Appeal Panel.

### 10.8 Presentations at Hearing

The Appellant and the Respondent may make oral presentations to the Appeals Panel. The Appeals Panel does not hear from any witness(es) and no new evidence is admitted, except with the Panel's permission.

### 10.9 Decision and Order

The Appeals Panel decides the Appeal by a vote of a majority of its members and delivers a written decision, with reasons, within 10 days of the date of the Appeal Hearing to the Appellant and the Respondent. The Appeals Panel may modify a Hearing Panel decision or make other recommendations as it sees fit.

### 10.10 Final Decision

The decision of the Appeals Panel is final, and there is no further right of appeal. FPAM staff provides the Appellant, the Respondent and the Complainant with a written copy of the final decision and order of the Appeals Panel.

## ARTICLE 11: INTERIM SUSPENSION

An Interim Suspension is the temporary suspension by FPAM of a CFP professional's right to use the CFP Marks for a definite or indefinite period of time, while proceedings conducted according to these Disciplinary Rules and Procedures are pending. An Affiliate's decision to impose an interim suspension does not preclude the imposition of any other form of discipline in final resolution of the disciplinary proceeding.

### 11.1 Issuance of an Order to Show Cause

Although a CFP professional's right to use the CFP Marks is not ordinarily suspended during disciplinary proceedings, when it appears a CFP professional has been convicted of a Serious Crime, has received a Professional Suspension, has converted property or funds, has engaged in conduct that poses an immediate threat to the public, or has engaged in conduct that damages the stature and reputation of the CFP Marks, the Investigating Officer may issue an Order to Show Cause why the CFP professional's right to use the marks should not be suspended during disciplinary proceedings.

### 11.2 Service an Order to Show Cause

FPAM staff serves the Order to Show Cause upon the CFP professional either by personal service or by registered postal service that provides proof of Delivery, sent to the last known address of the CFP professional.

### 11.3 Response to an Order to Show Cause

The CFP professional responds in writing within 20 days of service of the Order to Show Cause by FPAM. The CFP professional, in the response, either requests or waives the right to participate in a Show Cause Hearing.

### 11.4 Failure to Respond to the Order to Show Cause

If the CFP professional fails to file a Response within the period provided in Article 11.3, he or she is deemed to have waived the right to respond, the allegations in the Order to Show Cause are deemed admitted, and an interim suspension is issued.

### 11.5 Show Cause Hearing

Upon receiving the CFP professional's Response as provided in Article 11.3, a Hearing is scheduled before no less than a quorum of the Professional Review Committee. If requested, the CFP professional has the opportunity to participate at the Hearing, present arguments and evidence on his or her own behalf. The CFP professional submits all evidence to be presented to FPAM staff no less than 20 days prior to the scheduled Hearing. Any evidence not submitted in this way may only be admitted by the Chairperson.



### 11.6 Interim Suspension

An Interim Suspension is issued when the Professional Review Committee determines that the CFP professional has failed to provide evidence that establishes, by a preponderance of the evidence, that the CFP professional does not pose an immediate threat to the public and that the CFP professional's conduct does not damage the stature and reputation of the CFP Marks. If a convicted or suspended CFP professional seeks appellate review of the conviction or suspension, that action does not limit the power of the Professional Review Committee to impose an interim suspension. The decision of the Professional Review Committee issuing an Interim Suspension is final and there is no right of appeal.

### 11.7 Automatic Reinstatement upon Reversal of Conviction or Suspension

A CFP professional subject to an interim suspension under this Article 11 will have the suspension reversed immediately upon filing a certificate with the Professional Review Committee demonstrating that the underlying criminal conviction or Professional Suspension has been reversed. The reinstatement will have no effect on any proceeding conducted related to any action pending against a CFP professional for violations of the Code of Ethics and Professional Responsibility, Rules of Conduct or Financial Planning Practice Standards.

### 11.8 Publication

FPAM publishes the interim suspension and identifies the CFP professional.

## ARTICLE 12: COSTS

### 12.1 Investigation and Defense Costs

Unless otherwise provided in these Disciplinary Rules and Procedures, FPAM bears the costs of investigating misconduct by a CFP professional. The CFP professional is responsible for his or her costs to respond to the investigation and defend him or herself during the disciplinary process.

### 12.2 Hearing or Appeal Costs

In disciplinary cases where a Hearing Panel or Appeals Panel is convened, the CFP professional pays appropriate Hearing costs. In addition, a CFP professional who wishes to appear at a Panel meeting, whether telephonically or in person, or who submits an Offer of Settlement pursuant to Article 7, is required to submit costs not less than 30 days prior to the date of the scheduled Hearing. In the event the Hearing results in a dismissal without merit, the Hearing costs are refunded to the CFP professional. Costs are not refunded if the Hearing results in any action other than a dismissal without merit.

## ARTICLE 13: CONFIDENTIALITY OF PROCEEDINGS

### 13.1 Confidentiality

Except as otherwise provided in this document, all proceedings conducted according to these Disciplinary Rules and Procedures, and the records of FPAM, Investigating Officer, Hearing Panel and Appeals Panel, are confidential.

### 13.2 Compulsory Disclosure

FPAM discloses any records with respect to the CFP professional, and all records of an investigation and/or Hearing under these Disciplinary Rules and Procedure, if the disclosure is required by legal process of a court of law or other governmental body or agency having appropriate jurisdiction.

### 13.3 Consent

All CFP professionals, by their initial application for and renewal of CFP certification, consent to any notice, publication or release of information made subject to these Disciplinary Rules and Procedures.

### 13.4 Publication

Once the deadline for filing an Appeal has passed or an Appeal decision has been issued, FPAM publicizes any finding of misconduct by a CFP professional. Generally, this publicity is limited to a brief statement of the facts, a statement of the proven violations of the Code of Ethics and Professional Responsibility, Rules of Conduct or Financial Planning Practice Standards, and a description of the discipline imposed. FPAM may notify any person of a finding of misconduct by a CFP professional, including the CFP professional's employer, associates, partners and the governing bodies of other professions of which the CFP professional is a member.

## ARTICLE 14: COMPLAINANT

### 14.1 Courtesy

The CFP professional has an obligation to treat the Complainant with courtesy and respect during and after the disciplinary process.

### 14.2 Complainant's Role in Hearings

The Complainant may be present at a Hearing Panel but has no right to participate in Hearings unless requested. The Complainant may be invited to give evidence to the Hearing Panel by the CFP professional or Investigating Officer but cannot be compelled to give evidence. The Complainant does not have the right to be present at, or participate in, an Appeals Hearing.

## ARTICLE 15: NOTICE

### 15.1 Delivery

Notices may be delivered by personal service, confirmed receipt Delivery service, facsimile or other means of electronic communication, or by any alternate methods FPAM staff reasonably believes will bring the notice to the attention of the intended recipient.

### 15.2 Deemed Delivery

Notices delivered by personal service are deemed to be delivered on the day delivered, by registered postal service on the fourth business day following posting, by facsimile or other electronic methods on the day following transmission, and by alternate means on the fourth business day following being sent from FPAM office.

### 15.3 Time Period

Any time periods specified in these Disciplinary Rules and Procedures includes and begins to run from the date of deemed service.

### 15.4 Proof

Proof of service is by registered postal service and/or affidavit of service or any other means FPAM staff determines.

### 15.5 Address

A CFP professional may not challenge service given to the address recorded in the files of FPAM. The CFP professional may challenge service if he or she did not, in good faith, receive the notice due to matters beyond his or her control, by providing proof to FPAM staff.

## ARTICLE 16: CONVICTION OF A CRIME OR PROFESSIONAL SUSPENSION

### 16.1 Proof of Conviction or Professional Suspension

Except as otherwise provided in these Disciplinary Rules and Procedures, a certificate from the clerk of any court of criminal jurisdiction indicating that a CFP professional has been convicted of a crime in that court, or a letter or other writing from a governmental or industry self-regulatory authority indicating that a CFP professional has received a Professional Suspension, conclusively establishes the existence of the conviction or Professional Suspension for purposes of disciplinary proceedings and is conclusive proof that the CFP professional has committed the crime or received a Professional Suspension.

### 16.2 Duty to Report Criminal Conviction or Professional Suspension

A CFP professional, upon being convicted of a crime, except misdemeanor traffic offenses or traffic ordinance violations unless the offense involves the use of alcohol or drugs, or upon receiving a Professional Suspension, notifies FPAM in writing of the conviction or suspension within 10 days after the date on which the CFP professional receives notification of the conviction or suspension.

### 16.3 Beginning Disciplinary Proceedings upon Notice of Conviction or Professional Suspension

Upon receiving notice that a CFP professional has been convicted of a crime other than a Serious Crime (as defined in the glossary of this document), FPAM refers the matter to the Investigating Officer for investigation. If the conviction is for a Serious Crime or if a CFP professional receives a Professional Suspension, the Investigating Officer obtains the record of conviction or proof of suspension and files a Complaint against the CFP professional as provided in Article 3. If the CFP professional's criminal conviction or Professional Suspension is either proved or admitted, the CFP professional has the right to be heard by the Hearing Panel only on matters of rebuttal of evidence presented by FPAM staff, other than proof of the conviction or suspension.

## ARTICLE 17: REQUIRED ACTION AFTER REVOCATION OR SUSPENSION

### 17.1 Use of the CFP Marks

After the entry of an order of revocation or suspension is final, the CFP professional must promptly terminate any use of the CFP Marks and stop using them in any advertising, announcements or on his or her letterhead or business cards.

## ARTICLE 18: REINSTATEMENT AFTER DISCIPLINE

### 18.1 Revocation

Revocation of the right to use the CFP Marks is permanent, and there is no opportunity for reinstatement.

### 18.2 Suspension

Unless otherwise stated by the Hearing Panel in its order of suspension, a CFP professional suspended for a period of up to one year is automatically reinstated upon expiration of the period of suspension, provided the CFP professional files with FPAM an affidavit within 30 days of the expiration of the period of suspension stating that he or she has fully complied with the order of suspension and with all applicable provisions of these Disciplinary Rules and Procedures. A CFP professional who has been suspended for a period longer than one year must petition the Professional Review Committee for a reinstatement Hearing within six months of the end of his or her suspension; failure to do so results in administrative relinquishment by FPAM staff. Before any reinstatement Hearing is scheduled, the CFP professional must meet all administrative requirements for CFP certification renewal, pay the reinstatement Hearing costs and provide evidence, if necessary, that all prior Hearing costs have been paid. At the reinstatement Hearing, the CFP professional must prove by a preponderance of the evidence that he or she has been rehabilitated, has complied with all applicable disciplinary orders and provisions of these Disciplinary Rules and Procedures, and that the CFP professional is fit to use the CFP Marks.

### 18.3 Investigation

Upon receipt of a petition for reinstatement, the Investigation Officer initiates an investigation. The petitioner cooperates in the investigation, and the Investigating Officer submits a report of the investigation to the Professional Review Committee that details the petitioner's past disciplinary record and any recommendation regarding reinstatement.

### 18.4 Successive Petitions

If an individual is denied reinstatement, he or she must wait two years to again petition for reinstatement. The second petition must be received by the Investigating Officer within six months of the expiration of this period; failure to submit a second petition within this time period results in the individual's right to use the CFP Marks being administratively relinquished by FPAM staff. If the second petition is denied, the individual's right to use the CFP Marks is administratively relinquished by FPAM staff.

### 18.5 Reinstatement Fee

FPAM assesses petitioners for reinstatement the costs of the reinstatement proceeding.



## GLOSSARY OF TERMS

**Appeal:** A request made by an Appellant to review a finding or decision of the Hearing Panel.

**Appeal Hearing:** A proceeding before the Appeals Panel in which arguments are presented to determine if there was a clear error in the findings or decision of the Hearing Panel; those in attendance include the Appellant and Respondent.

**Appeals Panel:** The three-member body created by the Professional Review Committee from its own members to hear and decide on an Appeal. Any Professional Review Committee member who sat on the Hearing Panel is ineligible to sit on the Appeals Panel. The Professional Review Committee appoints one member of the Appeals Panel as Chairperson, who is the presiding officer for the Appeal Hearing.

**Appellant:** The party that files an Appeal.

**Burden of proof:** The legal obligation, usually placed on the complaining party, to prove the alleged facts. See also Preponderance of Evidence.

**CFP Marks:** CFP, CERTIFIED FINANCIAL PLANNER and CFP Logo certification and service marks. Use of the marks identifies that an individual has met rigorous competency, ethics and professional practice standards to deliver financial planning in a territory, as established by FPSB Ltd. and locally adapted and administered by the FPSB Affiliate in that territory.

**Clear Error:** There is Clear Error when, although there is evidence to support a Hearing Panel finding, the Appeals Panel, in viewing the entire evidence, is left with the definite and firm conviction that the Hearing Panel has committed a mistake in its deliberations or decision.

**Complainant:** An individual filing a Complaint.

**Complaint:** A written statement filed by a Complainant describing an alleged violation of the Code of Ethics and Professional Responsibility, Rules of Conduct or Financial Planning Practice Standards.

**Counter Settlement Offer:** An offer by the Hearing Panel in response to an Offer of Settlement modifying the proposed finding(s) of fact, violation(s) and/or discipline.

**Delivery:** Notices may be delivered by personal service, confirmed receipt delivery service, facsimile or other means of electronic communication, or by any alternate methods FPAM staff reasonably believes will bring the notice to the attention of the intended recipient.

**Discovery:** A pre-hearing procedure for compelling the disclosure of pertinent factual information.

**Hearing:** A proceeding before a Hearing Panel in which evidence and/or argument is presented to determine the issues raised in a Complaint; those in attendance may include the Investigating Officer, the CFP professional against whom a Complaint is filed, and other individuals as allowed under the Disciplinary Rules and Procedures.

**Hearing Panel:** The three-member body created to hear and decide on a Complaint; consists of a Chairperson chosen by the Professional Review Committee and two members chosen by the Chairperson and Affiliate staff from a list of qualified individuals maintained by Affiliate staff.

**Investigating Officer:** Individual(s) assigned by FPAM to oversee the disciplinary process. FPAM may designate a committee of individuals or one individual, such as an Investigating Officer, to oversee the disciplinary process.

**Letter of Admonition:** A written decision issued by FPAM against a CFP professional reproaching him or her for unprofessional behavior.

**Notice of Appeal:** A written notice of the intent to appeal a decision of the Hearing Panel.

**Notice of Hearing:** Written details regarding the scheduled Hearing that includes the evidence to be used and witnesses to be called by the Investigating Officer at the Hearing. Notice is provided to the Investigating Officer, CFP professional, Complainant and members of the Hearing Panel.

**Offer of Settlement:** An offer made by the CFP professional under investigation to settle a Complaint in exchange for an agreed upon discipline or action.

**Order to Show Cause:** An order issued by the Investigating Officer requesting that the CFP professional under investigation show why his or her right to use the CFP Marks should not be suspended during disciplinary proceedings.

**Preponderance of evidence:** A legal burden of proof that generally means “more probable than not” or “greater weights of evidence” (i.e., evidence that as a whole shows that the fact sought to be proved is more probable than not).

**Professional Review Committee:** The committee established by FPAM to oversee the process for hearing cases of alleged violations of the Code of Ethics and Professional Responsibility, Rules of Conduct and Financial Planning Practice Standards.

**Professional Suspension:** A suspension as a disciplinary measure by any governmental or industry self-regulatory authority of a license, such as a registered securities representative, broker/dealer, insurance or real estate salesperson or broker, insurance broker, attorney, accountant, investment adviser or financial planner.

**Respondent:** The party against whom an Appeal is made.

**Serious Crime:** (1) any felony (or equivalent); (2) any lesser crime, which, according to statutory or common law involves misrepresentation, fraud, extortion, misappropriation or theft; and/or (3) an attempt or conspiracy to commit the crime, or solicitation of another to commit the crime.

**Show Cause Hearing:** A proceeding before no less than a quorum of the Professional Review Committee to consider the evidence and arguments related to an Order to Show Cause why a CFP professional’s right to use the CFP Marks should not be immediately suspended.