

Notice to CFP® Professionals: Importance of Accurate Compensation Disclosures

August 7, 2013

Background: This notice provides an important reminder that CFP® professionals are required to disclose to clients and prospective clients information concerning the CFP® professional's compensation. The purpose of this Notice is to remind CFP® professionals of both the scope of the term "compensation" and the obligation to make accurate disclosures of compensation methods on all public websites, including on related-party websites, public search engines, and public disclosure forms, including Form ADV. Disclosures of compensation methods must remain accurate throughout each client relationship.

What Constitutes Compensation?

The *Rules of Conduct* require CFP® professionals to disclose to clients and prospective clients certain information concerning the CFP® Professional's compensation. In the terminology section set forth on page 4 of the *Standards of Professional Conduct*, CFP Board defines "compensation" as "any non-trivial economic benefit, whether monetary or non-monetary, that a certificant or related party receives or is entitled to receive for providing professional activities." Therefore, in addition to informing a client or prospective client of the compensation that the CFP® professional receives or is entitled to receive for providing professional activities, a CFP® professional is required to disclose the compensation that a related party, such as the CFP® professional's employer, receives or is entitled to receive for providing professional activities. This includes:

- Compensation that the CFP® professional receives or is entitled to receive from a client or prospective client for providing professional activities;
- Compensation that related parties, such as the CFP® professional's employer, receives or is entitled to receive from a client, prospective client, or other source for providing professional activities; and
- Compensation the CFP® professional receives or is entitled to receive from related parties, such as the CFP® professional's employer or other sources, for providing professional activities.

Note that as set forth in the "compensation" definition, compensation includes "any non-trivial economic benefit, whether monetary or non-monetary." As a general rule, CFP Board considers as non-trivial any consideration received in exchange for providing professional activities. That

includes, for example, consideration received for a recommendation provided by the CFP® professional or a related party.

In addition, compensation includes non-trivial economic benefits that a certificant or related party “receives or is entitled to receive.” Thus, a CFP® professional is required to disclose all compensation that may result from the provision of professional activities. This includes, for example, first year commissions, renewal commissions in subsequent years, 12b-1 fees, and compensation that may result from a client referral agreement.

Disclosure of Compensation Method:

CFP Board’s “Find a CFP® Professional” search engine allows a member of the public to determine how a CFP® professional describes his/her compensation method – as either “Commission and Fee,” “Commission Only,” “Fee-only” or “Salary.” The terms “Commission,” “Fee-only,” “Commission and Fee,” and “Salary” are discussed below.

Commission:

In the *Standards of Professional Conduct*, CFP Board defines “Commission” as “compensation generated from a transaction involving a product or service and received by an agent or broker, usually calculated as a percentage on the amount of his or her sales or purchase transactions. This includes 12b-1 fees, trailing commissions, surrender charges and contingent deferred sales charges.” If the CFP® professional or a related party receives or is entitled to receive commissions for providing professional activities, the CFP® professional must disclose that he/she receives commissions as part of his/her compensation. For example, if the CFP® professional works for a registered investment adviser that is under common ownership with a broker-dealer, CFP Board considers the broker-dealer to be a related party. Therefore, any CFP® professional working for an organization that has a broker-dealer subsidiary or affiliate must include “commission” as part of his/her compensation disclosure.

Fee-only:

The “fee-only” definition set forth in the *Standards of Professional Conduct* provides that a CFP® professional “may describe his or her practice as ‘fee-only’ if and only if, all of the certificant’s compensation from all of his or her client work comes exclusively from the clients in the form of fixed, flat, hourly, percentage or performance-based fees.” When read in conjunction with the definition of compensation, the “fee-only” description applies when the CFP® professional *and* any related parties receive, or are entitled to receive, only fees for providing professional activities. For example, a CFP® professional may work for an investment advisor that charges only fees for the CFP® professional’s professional activities. However, if a related party receives commissions, the definition of “fee-only” is not satisfied, and the CFP® professional may not describe his or her compensation as “fee-only.”

Commission and Fee:

If a CFP® professional and any related party receives or is entitled to receive both commissions and fees for providing professional activities, the CFP® professional must disclose his or her compensation as “Commission and Fee.”

Salary:

CFP Board does not define “salary” in the *Standards of Professional Conduct*. A CFP® professional is required to describe his/her compensation in a manner that allows clients and prospective clients to understand how they will pay the CFP® professional and any related party. Except in very limited circumstances, salary does not provide an accurate and understandable description of the compensation arrangement being offered by a CFP® professional because it does not describe how the client will pay the CFP® professional and any related party. Therefore, CFP Board will remove “Salary” from its “Find a CFP® Professional” search engine, effective Friday, August 16, 2013.

Conclusion:

In determining how to make compensation disclosures, a CFP® professional must consider compensation to the CFP® professional *and* any related party. The CFP® professional also must include as compensation any non-trivial economic benefit that the CFP® professional or any related party “receives or is entitled to receive.”

Please note that CFP Board does not audit CFP® professionals to verify the accuracy of their compensation disclosures. However, in the event that CFP Board is notified that a CFP® professional has made an inaccurate compensation disclosure, CFP Board will initiate an investigation of the CFP® professional's compensation disclosures.

Questions?

Questions concerning this Notice may be directed to Michael P. Shaw, Managing Director, Professional Standards and Legal, at 202-379-2230 or mshaw@cfpboard.org.