

# Disciplinary Rules and Procedures

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# Article 1: Introduction

## 1.1 Introduction

Financial Planning Standards Council (FPSC®) has the responsibility of protecting the public interest by ensuring that an individual certified by FPSC, as a CFP® professional or an FPSC Level 1® Certificant in Financial Planning (collectively referred to as an FPSC Registrant), observes the highest professional and ethical standards, and maintains the integrity, reputation and significance of the CERTIFIED FINANCIAL PLANNER®, CFP, CFP flame logo, and FPSC Level 1 certificant trademarks (collectively, the Marks).

FPSC has accordingly adopted the *Standards of Professional Responsibility for CFP Professionals and FPSC Level 1 Certificants in Financial Planning (Standards of Professional Responsibility)*. Within the document are the following:

- FPSC® Code of Ethics (Code)
- FPSC® Rules of Conduct (Rules)
- FPSC® Fitness Standards (Fitness Standards)
- FPSC® Financial Planning Practice Standards (Practice Standards)

These documents establish minimum standards of acceptable professional conduct, and clarify the expectations of FPSC Registrants acting in the capacity of financial planning practitioners.

Adherence to the Code and Rules is mandatory for all FPSC Registrants and the principles and rules contained in those documents will be strictly enforced by FPSC. The Disciplinary Rules and Procedures (the Procedures) are used by FPSC to enforce the Code, Rules and Fitness Standards to fulfill its public interest role, as well as to protect the reputation of the Marks. FPSC has a duty to investigate any allegation of misconduct received about an FPSC Registrant as well as any matters that may come to its attention, which may indicate misconduct.

## 1.2 General Principle

These Procedures shall be liberally interpreted and implemented to secure the most reasonably expeditious and fairest determination with respect to every proceeding.

# Article 2: Grounds for Discipline

A complaint against, or other indication of misconduct by, an FPSC Registrant that, pursuant to these Procedures, is investigated and found to constitute misconduct shall constitute grounds for discipline, whether or not the misconduct arose in the course of a client relationship.

Misconduct may include:

1. any act or omission that violates the provisions of the Code, Rules, or Fitness Standards;
2. non-compliance with an order of discipline given hereunder;
3. failure to cooperate with an FPSC investigation;
4. any false or misleading statement made by an FPSC Registrant to FPSC whether or not in the course of an investigation;
5. any other acts or omissions amounting to misconduct or which may bring the reputation of the Marks into question.

Cheating or other instances of examination misconduct by an FPSC Registrant, as detailed in the *Guide to Examinations for CFP Certification*, (the Guide), shall be dealt with in accordance with the provisions of the Disciplinary Procedures for Examination Candidate Misconduct.

## Article 3: The Managing Director, Standards

### 3.1 Powers of the Managing Director, Standards

The President & CEO of FPSC shall appoint a Managing Director, Standards (“Director”) who shall be responsible for standards and enforcement, and having regard to the necessity for expeditiously concluding all disciplinary matters, shall have the power to:

1. oversee the process for receipt and investigation of complaints from any person or entity, in accordance with Article 4;
2. make a complaint in the absence of a third-party allegation of misconduct where the Director reasonably believes there are circumstances that indicate misconduct;
3. facilitate the review of matters before the Conduct Review Panel (CRP);
4. prosecute matters before a Hearing Panel;
5. represent FPSC’s position before an Appeal Panel;
6. engage professionals, experts and other persons to assist in the enforcement process including the following activities:
  - the conduct of investigations including the interview of complainants, the FPSC Registrant concerned and any other persons relevant to the matter;
  - the examination of any books, documents, records and other relevant material; and
  - the review of all files maintained by FPSC with respect to the FPSC Registrant.
7. proceed with a complaint before the Hearing Panel or the Appeal Panel and provide information obtained through the investigation to the Panel(s);
8. engage counsel or other qualified individuals to act on behalf of the Director in a Hearing or Appeal;
9. maintain records of all investigations; and
10. do anything else necessary or desirable for the proper discharge of the Director’s duties including raising possible changes to these procedures to the President & CEO of FPSC.

No member of the Board may serve as the Director.

## Article 4: Investigation

### Complaints

#### 4.1 Initial Review

Within 90 days of receipt of a written complaint, FPSC Staff (Staff) shall make an initial determination of its merits. Any complaint that does not include a proper allegation of misconduct in accordance with Article 2 above shall be dismissed. Staff shall notify the complainant in writing of a dismissal with reasons.

## 4.2 Notice of Investigation

Where it is determined that a complaint includes a proper allegation of misconduct and a formal investigation is warranted:

1. Staff shall give written notice to the FPSC Registrant, in accordance with Article 14 that a formal investigation has been commenced. Such notice shall set out the substance of the complaint. The FPSC Registrant shall reply in detail to the notice within 30 days of receipt thereof, or any other deadline set by Staff, and provide copies of relevant documents and files held by the FPSC Registrant with respect to the substance of the complaint.
2. Where the FPSC Registrant fails to respond to FPSC's communications and/or to cooperate with an investigation, the Director may, refer the matter to a Disciplinary Hearing Panel for consideration of the allegation that the FPSC Registrant has contravened Rule 24 of the *FPSC Rules of Conduct*, in accordance with Article 5.
3. Staff shall give written notice to the complainant that a formal investigation has been commenced. Such notice shall provide information as to procedure as may be appropriate in the circumstances of each case.

## 4.3 Cooperation

Every FPSC Registrant under investigation has an obligation to fully cooperate and make available to FPSC, upon request, any relevant documents and records in his or her possession, or that are available to him or her. Relevance shall be determined by FPSC. Failure to do so is itself grounds for discipline under Article 2 of these Procedures.

## 4.4 The Conduct Review Panel

The findings of an investigation shall be set out in a report to be presented to the Conduct Review Panel (CRP) for consideration. Following its consideration of the report, the CRP shall:

1. dismiss the matter where it is determined that further review is unwarranted or unlikely to result in a finding of misconduct; or
2. dismiss the matter with a letter of Guidance and Advice, or
3. refer the matter to a Hearing Panel; and
4. advise the FPSC Registrant and the complainant of the decision in writing.

## Fitness Standards

### 4.5 Initial Review

Where FPSC becomes aware that an FPSC Registrant has engaged in conduct that may give rise to a Bar to Certification pursuant to the FPSC Fitness Standards, Staff shall conduct an initial review to assess the conduct. Where the assessment concludes that the conduct is minor in nature or represents an administrative or procedural transgression, Staff may remind the FPSC Registrant of their professional obligations or take no further action.

### 4.6 Notice of Presumptive Bar

Where it is determined that the conduct gives rise to a Bar to Certification pursuant to the FPSC Fitness Standards, Staff shall advise the FPSC Registrant in accordance with Article 14, and provide them with an

opportunity to explain their conduct in a Request for Reconsideration within 30 days. Failure to provide a Request for Reconsideration will result in the FPSC Registrant being barred from certification.

#### **4.7 Request for Reconsideration**

1. A Request for Reconsideration shall provide an opportunity for the FPSC Registrant to submit a detailed account of the conduct, including any mitigating circumstances that should be considered, and any other reasons why the Bar to Certification should not apply.

#### **4.8 The Conduct Review Panel**

Following consideration, the CRP shall:

1. allow the certification where it is determined that the conduct is not a Bar to Certification, and recommend Guidance and Advice where appropriate; or
2. deny the certification and refer the matter to a Hearing Panel; and
3. advise the FPSC Registrant of the decision in writing.

#### **4.9 Cooperation**

Following a submission of Request for Reconsideration, every FPSC Registrant has an obligation to fully cooperate and make available to FPSC, upon request, any relevant documents and records in his or her possession or that are available to him or her. Relevance shall be determined by FPSC. Failure to do so is itself grounds for discipline under Article 2 of these Procedures.

## **Article 5: Hearing Panel**

#### **5.1 Establishing Hearing Panel**

Where the CRP determines that a matter should be referred to a Hearing Panel in accordance with Article 4 above, the Director shall, within 30 days of the decision of the CRP, write to the Secretary to the Hearing Panel (the Secretary) requesting that the Secretary establish a Hearing Panel.

#### **5.2 Hearing Panel**

The Secretary shall appoint three members of the Hearing Panel Roster to serve as members on the Hearing Panel.

In selecting members from the Hearing Panel Roster, the Secretary shall consider area of expertise and, where applicable, geographic location. The Secretary shall make every effort to rotate Hearing Panel Roster members. The Hearing Panel must be comprised of a majority of FPSC Registrant members.

The selected members shall appoint one member, from amongst themselves, to serve as Chair of the Hearing Panel.

Subject to the provisions of Article 9.10, the Hearing shall be held at a location chosen by the Secretary who shall give due consideration to the convenience of all parties concerned.

#### **5.3 Administration**

The Secretary shall be responsible for all aspects of administering the hearing process including maintaining records of all Hearings and decisions.

## Article 6: Hearing

### 6.1 Notice of Hearing

Upon the fixing of the time and place for the Hearing, the Secretary shall give written notice (the Notice of Hearing) to the Director, the FPSC Registrant, the complainant, where applicable, and the members of the Hearing Panel. The Notice of Hearing shall set out FPSC's and FPSC Registrant's respective deadlines for delivery of submissions and supporting evidence. The Notice of Hearing will also detail the location and format of the Hearing i.e., in-person or by way of written submissions.

### 6.2 FPSC's Submissions to the Hearing Panel

FPSC shall file with the Secretary, not later than 45 days prior to the date of the Hearing or such other date as established by the Secretary and set out in the Notice of Hearing, its written submissions and supporting evidence (including any witness evidence) to be relied upon by members of the Hearing Panel (FPSC Submissions).

### 6.3 FPSC Registrant's Response

The FPSC Registrant shall file with the Secretary, not later than 30 days prior to the date of the Hearing detailed in the Notice of Hearing or such other date as established by the Secretary and set out in the Notice of Hearing, a response to the matter (the Response).

The Response should provide the FPSC Registrant's explanation of the circumstances and his or her conduct. The Response should also include any additional information/evidence the FPSC Registrant wants the Hearing Panel to consider, and where applicable, the name, address and telephone number of the counsel representing them. The Secretary shall deliver copies of the Response to the Director and the members of the Hearing Panel.

### 6.4 FPSC's Reply

FPSC shall file its Reply, if any, with the Secretary not later than 10 days prior to the date of the Hearing or such other date as established by the Secretary and set out in the Notice of Hearing. The Secretary shall deliver copies of the Reply to the FPSC Registrant and the members of the Hearing Panel.

Absent the consent of the other party or leave of the Hearing Panel, neither FPSC nor the FPSC Registrant shall be allowed to submit any additional material (evidence or written submissions) to the Secretary and/or the Hearing Panel subsequent to delivery of FPSC's Reply.

### 6.5 Conduct of Hearing

The members of the Hearing Panel, other than among themselves, shall not discuss any aspect of the matter before the Hearing Panel with any person, except that the Hearing Panel may engage counsel or experts to assist them.

### 6.6 Representation

If the matter proceeds by way of an in-person Hearing, the Director or his/her delegate shall represent FPSC at the Hearing.

Where the Hearing proceeds in-writing, FPSC's Submissions, the FPSC Respondent's Response and FPSC's Reply (if any), form the parties' respective submissions. The FPSC Registrant has the right to be represented by counsel and/or to retain counsel to assist in the preparation of his/her Response.

Where the Hearing proceeds in-person, both parties may lead evidence and make submissions to the Hearing Panel. For clarity at an in-person Hearing, the FPSC Registrant has the right to be represented by counsel, to invite witnesses, to introduce evidence, to make submissions and to question witnesses. FPSC has the same rights.

### **6.7 Procedure**

The Hearing Panel will be guided by the general rules pursuant to Article 9.

Except as provided in Section 7.2, the Director may not introduce any information in FPSC files on the FPSC Registrant relating to prior investigations or discipline.

### **6.8 Settlement**

Prior to the commencement of the Hearing, at a mutually convenient time and place, the Director shall convene a case conference with the FPSC Registrant and, where applicable, his or her counsel to consider:

1. any matters that may simplify the Hearing including facts or evidence that may be agreed upon, the narrowing of any issue and any other matter that may assist in the fair and expeditious disposition of the matter; or
2. a settlement of the matter (a Settlement).

Where a Settlement is agreed upon, the FPSC Registrant and the Director shall file with the Hearing Panel, a Settlement Agreement consisting of an agreed statement of facts, an admission to the allegations, in whole or in part, or to the basis for the Bar to Certification by the FPSC Registrant and an agreed penalty and waiver of rights of appeal by the FPSC Registrant.

The Hearing Panel shall review the Settlement and, unless the Hearing Panel considers the Settlement to be inappropriate in the circumstances, shall make an order consistent with the Settlement.

If the Hearing Panel determines the Settlement to be inappropriate, it shall either:

1. request an amendment to the Settlement Agreement in accordance with its recommendations; or
2. reject the Agreement in its entirety and refer the matter back to the Director for a new Hearing.

### **6.9 Request for Direction**

In exceptional circumstances, the Director may, at any time prior to a Hearing, seek direction from the CRP.

Where the Director seeks direction from the CRP, the CRP shall first determine whether the circumstances are exceptional, and warrant consideration. Where the CRP exercises its discretion and considers the Director's request, the CRP shall advise the Director of its direction. The Director shall notify the FPSC Registrant, the Secretary and the Complainant (where applicable), of the CRP's direction.

### **6.10 Withdrawal of Complaint**

The Director may at any time prior to a Hearing withdraw FPSC's complaint in whole, or in part, when events or considerations subsequent to the CRP's decision make a successful prosecution outcome unlikely. Where the Director seeks to withdraw FPSC's complaint in whole, the Director shall notify the Chair of the CRP. The CRP may ratify the Director's decision or give direction regarding proceeding with the Hearing. Where the CRP ratifies the Director's decision to withdraw the complaint, the Director shall notify the Secretary, FPSC Registrant, and the complainant.

## Article 7: Decision of the Hearing Panel

### 7.1 Decision

The Hearing Panel shall, on a balance of probabilities, determine that there has been misconduct or dismiss the matter. The decision of the Hearing Panel shall be by majority vote and may be delivered by the Chair orally, with reasons, at the conclusion of the Hearing or, reserved for no more than 30 days at the discretion of the Hearing Panel. Where a decision is reserved, the Hearing Panel shall reconvene, in such manner as is determined by the Chair, as soon as possible, to deliver its decision and to consider penalty.

### 7.2 Disciplinary Penalty

Following a finding of misconduct, the Hearing Panel shall consider submissions on penalty from the Director and the FPSC Registrant, which may include a review of any files with respect to the FPSC Registrant held by FPSC. The Secretary shall notify FPSC and the FPSC Registrant of their respective deadlines for submission on penalty as set by the Hearing Panel.

Following such submissions, the Hearing Panel may order any one, or a combination, of the following forms of discipline:

1. a letter of admonishment, delivered by the Hearing Panel and placed in the FPSC Registrant's file;
2. imposition of a remedial action plan;
3. temporary suspension of the right to use the Marks;
4. a temporary or permanent ban from seeking renewal or reinstatement of certification;
5. permanent revocation of certification and the right to use the Marks;
6. an award of costs of the proceedings against the FPSC Registrant;
7. such other penalty as the Hearing Panel may determine.

Where costs of the proceeding are sought and the Hearing Panel awards costs, the Hearing Panel may consider, among other factors, the following:

- a) The costs and expenses incurred by FPSC in investigating (applying the approved tariff) and prosecuting the matter;
- b) Whether the FPSC Registrant delayed or prolonged the proceedings, including any failure to cooperate with FPSC's investigation;
- c) The respective degree of success of the parties in the proceedings; and
- d) Any other matter the Hearing Panel considers relevant.

### 7.3 Notice of Decision

The Chair shall provide to the FPSC Registrant, the Director, the complainant and the Secretary, a written decision and order of the Hearing Panel within 30 days of the Hearing.

### 7.4 Appeal of Decision

The FPSC Registrant and the Director shall have 30 days following receipt of the written decision to deliver to the Secretary a written request for Appeal. If neither party appeals within the allowed time, the decision of the Hearing Panel will be final.

## Article 8: Appeals

### 8.1 Right to Appeal

Either party may appeal the decision of a Hearing Panel on the grounds that there has been a significant and material error interpreting a provision of the Code, Rules or the facts before the Hearing Panel, such that the Hearing Panel would likely have reached a different decision but for that error.

### 8.2 Notice of Appeal

The party bringing the Appeal (the Appellant) shall, in accordance with Section 7.4, provide the other party (the Respondent) and the Secretary, with a written notice of the intention to appeal (the Notice of Appeal). The Notice of Appeal shall detail the Appellant's grounds for appeal in the form of a concise statement, without argument, of the issues and findings under appeal.

Where the FPSC Registrant is the Appellant, the FPSC Registrant may submit a request to the Secretary, that the disciplinary penalty imposed by the Hearing Panel be suspended pending the outcome of the Appeal. FPSC's response, if any, must be submitted to the Secretary within 10 business days of receipt of the Appellant's request.

Upon receipt of such a request, the Secretary shall notify the Chair of the Standards Panel and request that an Appeal Panel be appointed from the Hearing Panel Roster and that a Hearing date be fixed for consideration of Appellant's request. The Secretary shall notify the parties of the date once fixed.

The Appeal Panel shall convene as soon as practicable following receipt of the request from the Secretary to: (1) consider the Appellant's request and any response filed by FPSC; and (2) determine whether the disciplinary penalty will be stayed pending the outcome of the Appeal. The Appeal Panel shall render a decision, in writing, to the parties with the assistance of the Secretary, within 5 days of the Hearing.

### 8.3 Appeal Panel

The Chair of the Standards Panel shall appoint a three member panel (the Appeal Panel) from the Hearing Panel Roster, with the assistance of the Secretary. The Appeal Panel members shall select a panel Chair from amongst themselves. Members of the original Hearing Panel are ineligible to sit on the Appeal Panel.

### 8.4 Notice of Hearing

Following the appointment of the Appeal Panel, the Secretary shall fix a time and place for the hearing of the Appeal and shall give notice to the Appellant, the Respondent, the complainant, where applicable, and the members of the Appeal Panel. The Notice shall set out the Appellant's and Respondent's respective deadlines for submission of written representations. The Notice of Hearing will also detail the format of the Hearing i.e., whether in-person or in-writing.

### 8.5 Appellant's Statement

The Appellant shall deliver to the Secretary, not later than 15 days prior to the Appeal Hearing date or such other date as established by the Secretary and set-out in the Notice, a written submission setting out the grounds for appeal and the relief sought. The Secretary shall deliver copies to the Respondent and to the members of the Appeal Panel.

### 8.6 Respondent's Statement

The Respondent may make a written submission to the Appeal Panel. Any such submissions shall be filed with the Secretary not later than 10 days prior to the Hearing date or such other date as established by the Secretary

and set-out in the Notice. The Secretary shall deliver copies to the Appellant and to the members of the Appeal Panel.

### **8.7 Submissions at Hearing**

Where the Appeal proceeds in-writing, the Appellant's Statement and the Respondent's Statement are the parties' respective submissions.

Where the Appeal proceeds in-person, both parties may make submissions to the Appeal Panel. The Appeal Panel shall not hear witnesses and no new evidence shall be admitted except with leave of the panel. If a party seeks to tender evidence to the Appeal Panel which was not before the Hearing Panel, the party shall bring a motion before the Appeal Panel. The Appeal Panel shall give reasons for its decision in respect of any such motion.

### **8.8 Standard of Review on Appeal**

The standard of review on Appeal shall be reasonableness.

### **8.9 Decision and Order**

The Appeal Panel shall decide the Appeal by majority vote and its decision, with reasons, shall be delivered within 30 days of the date of the Hearing. The Appeal Panel may vary any penalty or make such orders as it sees fit.

### **8.10 Decision Final**

The decision of the Appeal Panel is final. The Secretary shall provide the Appellant, the Respondent and the Complainant with a written copy of the final decision and order of the Appeal Panel.

## **Article 9: General Rules for Hearings and Appeals**

In accordance with section 1.2, the following general rules shall apply, depending on the context, to the proceedings of any Hearing Panel or Appeal Panel:

1. the Chair shall establish such procedures as are appropriate in the circumstances;
2. the Chair may admit any evidence relevant to the proceedings;
3. the Chair may impose reasonable time limits during the proceedings;
4. the Chair may make such orders or give such directions in proceedings as the Chair considers proper to maintain order or prevent abuses of the panel's processes;
5. the Secretary shall produce administrative minutes of all Hearing Panel proceedings;
6. a Hearing may be adjourned by the Chair at any time;
7. the Chair may engage counsel or experts to assist the panel in hearing a Complaint and in making its decision;
8. the Chair may extend or abridge the time for service, filing or delivery of any document on such terms as are just;
9. the Chair shall have the discretion, provided that the fairness of the Hearing is not impaired, to hold any Hearing by such means as may be appropriate, including in-person, telephone conference call, video conference or written submissions;

10. all in-person Hearings shall be open to the public, subject to the discretion of the Chair to order the Hearing in camera, where intimate financial or personal information may be disclosed.

## Article 10: Costs

Unless otherwise provided herein, FPSC shall bear the costs of the investigation, the Hearing Panel and the Appeal Panel. The FPSC Registrant shall be responsible for his or her own costs. In all disciplinary cases where a Hearing is convened, the Hearing Panel or Appeal Panel may award costs to FPSC against the FPSC Registrant.

## Article 11: Suspension or Revocation

### 11.1 Suspension

Unless otherwise provided by the Hearing Panel or Appeal Panel, an FPSC Registrant who has been suspended must continue to meet all certification requirements of FPSC and shall be reinstated upon the expiration of the period of suspension provided the FPSC Registrant demonstrates that he or she has fully complied with the order of the Hearing Panel or Appeal Panel.

## Article 12: Confidentiality

### 12.1 Compulsory Disclosure

Any records with respect to the FPSC Registrant and all records of an investigation and/or Hearing under these Procedures will be disclosed if such disclosure is required by legal process of a court of law or other governmental body or agency having appropriate jurisdiction.

### 12.2 Consent

All FPSC Registrants, by their application for certification shall consent to any notice, publication or release of information made in accordance with these Procedures, including the publication or release of such information after an individual is no longer certified.

### 12.3 Publication

Following the later of the expiration of the time for filing a Notice of Appeal and final disposition of any matter, the Director may publicize, in such media as deemed appropriate, any finding of misconduct. Generally, such publicity will be limited to a brief factual recitation, a statement of the Standards of Professional Responsibility violations proven and a description of the penalty imposed.

The Director may notify any person of a finding of misconduct including, without limitation, the FPSC Registrant's employer, associates, partners and the governing bodies of other professions.

## Article 13: Complainant

### 13.1 Treat with Courtesy

The FPSC Registrant has an obligation to treat the complainant with courtesy and respect throughout the disciplinary process and thereafter.

### **13.2 Complainant's Role in Hearings**

The complainant shall have the right to be present at any Hearing (where the Hearing is held in-person) but shall have no right to participate in such Hearings unless requested.

The complainant may be invited to give evidence to the Hearing Panel by either the FPSC Registrant or the Director but cannot be compelled to give evidence.

## **Article 14: Notice**

### **14.1 Delivery**

Notices may be delivered by: personal services, courier, registered mail, ordinary mail and/or e-mail.

### **14.2 Deemed Delivery**

Where service is challenged, FPSC has the burden of establishing delivery of Notices. Notices delivered by personal service shall be deemed to be delivered on the day delivered. Notices delivered by registered mail and courier shall be deemed delivered on the fourth business day following mailing or as set out on the delivery receipt.

### **14.3 Time Period**

Any time periods specified in these Procedures shall include and begin to run from the date service of deemed service in accordance with section 14.2.

### **14.4 Address**

An FPSC Registrant may not challenge service properly given to the address recorded in the files of FPSC. The FPSC Registrant 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 the Secretary, the Director and the Hearing Panel.

# Appendix A: Policy on the Publication of Disciplinary Information

## **Purpose**

The purpose of this policy is to protect the public interest, and promote fairness and transparency, by establishing guidelines for the publication of disciplinary notices.

## **Scope**

All FPSC reports on disciplinary action.

## **Objective**

Ensure that the publication of FPSC's reports on disciplinary action is fair to all CFP professionals and FPSC Level 1 certificants (collectively FPSC Registrants) and that this information is available to be shared with the public as needed.

## **Responsibilities**

The Enforcement Policy Committee will review this policy from time to time and recommend any changes required to the Board of Directors as needed for approval.

## **PUBLICATION OF DISCIPLINARY NOTICES**

### **Disclosure of Disciplinary Information**

All reports on disciplinary actions will be available on the FPSC website in a dedicated section for review by members of the profession and the public. A historic searchable database will also be available for use on the FPSC website. The FPSC enforcement section will be searchable using common website search tools.

### **Amount of Information Disclosure**

The names of the individual, their location, a brief summary of the facts of the case, the investigative process, the provisions of the Code that were violated, and the decision will be available in a pdf format.

### **Forums for Disclosure**

The disclosure of disciplinary actions can be made on the FPSC website, in the FP Standard or other FPSC publications, local or national newspapers, and in any other manner deemed appropriate by FPSC to facilitate the purpose of informing and protecting the public, including notification of the individual's employer, associates, partners or the relevant governing bodies of other professions.

### **Time Limit for Information to be Disclosed**

Disciplinary actions will be kept in the FPSC database and available to the public on the website for a period of ten years before being deleted.

# Appendix B: Policy on the Disclosure of Investigations and Interim Suspensions

## Purpose

The purpose of this policy is to protect the public interest, and promote fairness and transparency, by establishing guidelines for disclosure of investigations and interim suspensions in exceptional circumstances.

## Scope

Investigations refers only to investigations conducted by FPSC Staff (Staff). It does not include those instances in which Staff is requested or required to participate in reviews or investigations conducted by other regulatory bodies.

## Objective

Ensure that the disclosure of FPSC investigations is made in only exceptional circumstances where the protection of the public warrants it, and that such disclosure is made in a fair manner that considers the rights of both the public and the CFP professional or FPSC Level 1 certificant (collectively FPSC Registrants) involved.

## Responsibilities

The Managing Director, Standards shall make recommendations to the Board of Directors for approval of disclosure of an investigation and where appropriate, the immediate interim suspension of an FPSC Registrant's certification in accordance with the provisions of this Policy.

The Enforcement Policy Committee will review this policy from time to time and recommend any changes required to the Board of Directors as needed for approval.

## Guidelines for Disclosure of Investigations and Interim Suspensions

### General Policy on Disclosure of Disciplinary Proceedings

As a general rule, there is no public disclosure by Staff of information about an ongoing or a closed investigation. This position is based primarily on the following factors:

- Potential prejudice to the investigation;
- Potential prejudice to those who are under investigation; or
- Restrictions imposed by the provisions of confidentiality detailed in the FPSC Privacy Policy.

### Disclosure of Investigations – Exceptional Circumstances

Staff may disclose the name of the FPSC Registrant who is under investigation in the following, exceptional circumstances:

- Protection of the public outweighs factors favouring non-disclosure (e.g. where there is apparently credible evidence of continuing fraudulent behaviour, and non-disclosure would be likely to result in losses to members of the public). This can also be triggered during the course of an investigation, where the amount of information gathered reaches a level such that lack of disclosure would be prejudicial to the public;
- A criminal investigation for possible criminal activity is underway at the same time as an FPSC investigation;

- The investigation relates to conduct or issues that are substantially in the public domain and there are credible allegations which engage the enforcement jurisdiction of FPSC. Confidence in the CFP designation may be harmed by failure to confirm that the matter is under FPSC consideration;
- A similar investigation by another regulator or law enforcement agency has been disclosed regarding the same individual or individuals; or
- The FPSC Registrant has disclosed the FPSC investigation. FPSC may confirm and, if necessary, correct any misleading or inaccurate information disclosed by the FPSC Registrant.

### Interim Suspension

The Director may recommend suspension of the FPSC Registrant's certification pending the investigation and adjudication of the matter if there are reasonable grounds to believe:

- That there is a significant risk of harm to members of the public or public interest, and
- The suspension of the FPSC Registrant's certification would be likely to reduce such risk.

### Recommendation to the Board

Once a determination has been made by the Managing Director, Standards that an exceptional circumstance exists in accordance with the above Guidelines, a recommendation will be made to disclose the investigation and where appropriate, suspend the FPSC Registrant's certification pending the conclusion of the investigation and adjudication of the matter. A special meeting of the Board shall be convened to consider the recommendation and make a determination based on balancing the public interest with the prejudice that disclosure and suspension may have on the FPSC Registrant.

### Manner of Disclosure

Disclosure of an investigation and where applicable, the suspension of the FPSC Registrant's certification shall be made on the FPSC website and in the FP Standard, and in such other proprietary or media publications as Staff deems appropriate.

### Right to Hearing

Where the FPSC Registrant's certification has been suspended pursuant to this policy, the FPSC Registrant may request a Hearing on the matter of the suspension by a Hearing Panel of the Enforcement Policy Committee to occur within 30 days of the effective date of the request.

### Conclusion of Investigation

Where, at the completion of a publicly disclosed investigation, no further proceedings or discipline action will be taken, Staff will make public notice of such outcome. Where a breach of the FPSC Code of Ethics or FPSC Rules of Conduct, pursuant to the *Standards of Professional Responsibility for CFP® Professionals and FPSC Level 1 Certificants in Financial Planning* has been found and disciplinary measures have been taken, in accordance with the provisions of the Disciplinary Rules and Procedures, such disciplinary measures shall be made public in accordance with the FPSC Policy on the Publication of Disciplinary Information and Interim Suspensions.

## About FPSC

Financial Planning Standards Council is a not-for-profit organization dedicated to driving value and instilling confidence in financial planning. FPSC establishes and enforces professional standards in financial planning through CERTIFIED FINANCIAL PLANNER® certification and FPSC Level 1® Certification in Financial Planning.

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