

## **(5) Ethics and Discipline**

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FPAS Practitioner Manual 2017

## 1. PROFESSIONAL STANDARDS AND CODE OF ETHICS

### Introduction

#### 1 Applicability

The reliance of the public and the business community on sound financial planning and advice imposes on financial planning professionals an obligation to maintain high standards of technical competence, fair dealing and integrity.

Professional Standards reflect the commitment of Members of the Financial Planning Association of Singapore (FPAS) to meet a high standard of professional conduct.

The Professional Standards apply to all situations where a Member of the public engages a Member of the FPAS for the specific provision of financial planning services.

The Professional Standards of the FPAS comprise the following:

- a) Code of Ethics as set out in Article 3
- b) Rules of Professional Conduct as set out in Article 4

In addition, the FPAS will issue Practice Guidelines from time to time. These Guidelines are a practical application of the Rules and are designed to assist Members in their day-to-day practice.

The Practice Guidelines are not intended to be enforceable obligations themselves, but may be used to assess alleged breaches of Professional Standards.

#### 2 Accountability

Professional Standards set standards of conduct for Members and are enforceable. They may also be recognised by external bodies (such as regulators or the courts) as relevant standards for providing financial planning advice. Professional Standards are enforced by the FPAS as follows:

##### 2.1 Disciplinary Regulations

All Members are subject to the FPAS' Disciplinary Regulations. Any alleged breach of the FPAS' Professional Standards shall be investigated by an Investigation Committee appointed by the Executive Committee, and if warranted, referred for further disciplinary action. Serious breaches of the Professional Standards may result in heavy penalties as stated in the Constitution of the FPAS or amendments made thereto.

## Code of Ethics

### 3 General Standards

The Code of Ethics are general standards that shall apply to all classifications of Membership, unless otherwise stated. Every Member shall conform to the general standards set out in this Article in their professional activities and conduct.

#### 3.1 Client First

Members shall place the client's interests first, requiring them to act honestly and not place personal gain or advantage before the client's interest.

#### 3.2 Integrity

Members shall observe high standards of honesty and integrity in conducting their financial planning business and in the provision of financial planning services.

#### 3.3 Objectivity

Members shall disclose to the client any material limitation on their ability to provide objective financial planning services.

#### 3.4 Competence

Members shall provide competent financial planning services and maintain the necessary knowledge and skill to continue to do so in those areas in which the Member is engaged.

#### 3.5 Fairness

Members shall provide financial planning services in a manner that is fair and reasonable.

#### 3.6 Diligence

Members shall act with due skill, care and diligence in the provision of financial planning services.

#### 3.7 Professionalism

Members shall ensure their conduct does not bring discredit to the financial planning profession.

#### 3.8 Confidentiality

Members shall not disclose any confidential information without the specific consent of the provider of that information unless compelled to by law or as required to fulfil their legal obligations.

### **3.9 Compliance**

Members must maintain knowledge of and comply with the Constitution of the FPAS, the FPAS' Code of Ethics and Rules of Professional Conduct and all applicable laws, rules and regulations of any government, governmental agency, regulatory organisation, licensing agency or professional association governing the Members' professional activities.

## **Rules of Professional Conduct**

### **4 Specific Rules**

The Rules of Professional Conduct are specific standards that shall apply to all classifications of Membership, unless otherwise stated. Every Member shall adhere to the rules set out in this Article in their professional activities and conduct, and the FPAS may enforce the observation of the rules.

#### **4.1 General Conduct**

Rule 1 In the conduct of professional and business activities, a Member shall not engage in any act or omission of a misleading, deceptive, dishonest or fraudulent nature.

#### **4.2 Disclosure Statements to Prospective Clients**

Rule 2 A Member shall ensure that prospective clients are clearly informed in writing about:

- a) the identity of the Company responsible for the advice and, if the advice is provided through a Representative, the identity of the Representative;
- b) the nature of the services offered;
- c) the method of remuneration, fees, commission or charges associated with the delivery of services;
- d) the access to internal and external complaint handling mechanisms; and
- e) the nature and extent of any significant financial relationship or connection with a product supplier and any other material conflict of interest.

Rule 3 A Member shall clearly disclose to all prospective clients the capacity in which they are able to provide financial planning services.

#### **4.3 Financial Plan Preparation**

Rule 4 At the earliest point in the relationship, a Member shall disclose in writing to the client if the Member is only authorised to sell or advise on a restricted range of products, and any other limitation of their capacity to serve the client.

Rule 5 In the provision of any written recommendation contained in a financial plan (or a transaction governed by Rule 18), a Member must disclose to the client in writing that the Member, the Member's Principal, or an Associate in connection with the financial planning service will receive fees, commissions, or rebates from the sale of products made pursuant to the recommendations.

Disclosure must be included in the recommendation prepared and issued by the Member.

Rule 6 If financial planning services are provided orally, a Member must disclose orally to the client the particulars described in Rule 5.

Rule 7 In preparing oral or written recommendations to clients, a Member shall collect sufficient information to ensure appropriate advice can be given.

Rule 8 In preparing oral or written recommendations to clients, a Member shall conduct or have access to, research on financial strategies and products that may be appropriate to achieve the client's identified needs and objectives.

Rule 9 In preparing oral or written recommendations to clients, a Member shall develop a suitable financial strategy or plan for the client based on the relevant information collected and analysed.

Rule 10 In preparing oral or written recommendations to clients a Member shall provide an explanation of the nature of the investment risks involved in terms that the client is likely to understand.

Rule 11 A Member must ensure all significant recommendations are made in writing. If any significant recommendations are given orally, then confirmation must be given in writing as soon as practicable.

Rule 12 A Member shall not make any statements, orally or in writing, that misrepresent the services they or the Principal is capable of providing, and the data or facts that are used to support any recommendation

#### **4.4 Explanation of Financial Plan**

Rule 13 A Member must take reasonable steps to place the client in a position which the client is to comprehend the recommendations and the basis for the recommendations.

#### **4.5 Financial Plan Implementation**

Rule 14 In the appropriate circumstances, Rules 7 to 10 inclusive will not apply where there is an express documented instruction by a client to limit or restrict the scope of the financial planning service normally offered by the Member (e.g. an execution-only transaction service or advice limited to a particular area or product or where a client refuses to provide information sought). The client must be warned prior to implementing the relevant transactions about the consequences of the Member following these instructions.

Rule 15 A Member must implement all agreed recommendations by the client in an accurate, efficient and timely manner.

Rule 16 A Member shall confirm in writing to a client where a subsequent instruction given by that client significantly alters the financial strategy or balance of an existing portfolio under the supervision of the Member.

#### **4.6 Client Service**

Rule 17 Should an actual or potential conflict of interests develop after a professional relationship has commenced, a Member shall promptly disclose in writing the conflict(s) of interests to the client. The Member must be able to demonstrate that the client was made aware of any actual or potential conflict of interest.

Rule 18 A Member shall not move a client or cause a client to move from an investment to another investment without explaining to the client, in terms that the client is likely to understand, the reasons for the move. The Member must demonstrate that the move is appropriate for the client.

#### **4.7 Complaints**

Rule 19 All Members must comply with the relevant FPAS Disciplinary Regulations concerning complaints handling, dispute resolution and disciplinary procedures.

#### **4.8 Document Administration**

Rule 20 A Member shall ensure that information and relevant documents given to or gathered by the Member are securely stored to establish at any time that it has complied with the FPAS' Professional Standards and the information and documents must be available for inspection when required. Such records shall be retained for seven years from the date the document was last acted upon and may be destroyed thereafter.

Rule 21 A Member must, when requested to do so by a client, give to the client or another person authorised by the client, any original document (not photocopies) related to the provision of financial planning advice for which the client has paid or will pay for. This does not include documents which have been prepared or received by the Member in undertaking the advisory task, such as internal notes, memoranda, quotes or other working documents.

#### **4.9 FPAS' Reporting and Requirements**

Rule 22 A Member shall not misrepresent the status of their Membership of the FPAS.

Rule 23 A Member shall not misstate their authority to represent the FPAS. Specifically a Member shall not write, speak or act in such a way as to lead another to believe that the Member is officially representing the FPAS, unless the Member has been duly authorised to do so by the officers, directors or Regulations of the FPAS.

Rule 24 Unless compelled to by law, or as required to fulfil a legal obligation, any Member who by reason of their Membership in the FPAS is exposed to, learns of or has access to information and knowledge concerning the FPAS and/or Members must keep confidential all such information and knowledge and is not entitled to communicate or divulge that information or knowledge or any part thereof.

Rule 25 A Member shall advise the FPAS within two business days of any material change to their Authorised status.

Rule 26 A Member must co-operate with the FPAS in all aspects of any investigation or compliance review as authorised pursuant to the Constitution of the FPAS.

Rule 27 A Member shall effect and maintain professional indemnity insurance in accordance with the requirements prescribed by the FPAS from time to time. A Member must notify the FPAS in writing immediately of any material change to its professional indemnity insurance.

#### **4.10 Minimum Education and Competencies**

Rule 28 In order to maintain and improve professional knowledge, skills and competence, a Member must satisfy all continuing professional development requirements set by the FPAS from time to time.

Rule 29 A Member shall offer advice only in those areas in which the Member is competent. In areas where the Member is not professionally competent, the Member shall seek the counsel of qualified individuals and/or refer clients to such parties.

Rule 30 A Member shall have reasonable and appropriate standards for the appointment of Representatives.

#### **4.11 Supervision**

Rule 31 In determining whether a Member has complied with the FPAS's Professional Standards, any conduct by its Representatives or employees which relates to conduct of the Member's financial planning business shall be treated as the conduct of the Member.

Rule 32 A Member shall establish and maintain written policies and procedures for the effective control and conduct of its business. This rule does not apply to a Member with only one practising Representative.

Rule 33 A Member shall have a written agreement with its Representatives which defines the rights and obligations of the Member and the Representative. In the case of an employee Representative, a statement of conditions and duties would satisfy this rule. This rule does not apply to a Member with only one practising Representative.

Rule 34 A Member must maintain an effective system of supervision of all Representatives' activities, performance, training and recommendations made to clients.

## **2. DISCIPLINARY REGULATIONS**

### **Discipline and Professional Conduct**

#### **1 Disciplinary action**

- 1.1 A Member shall be liable to disciplinary action in any of the following cases:
- i. if it is alleged that he is guilty of misconduct. For the purpose of this paragraph, misconduct includes, but is not confined to, any of the following:
    - 1.1.1.1 if the Member is represented to be guilty of any act likely to bring discredit to himself, the FPAS or the profession;
    - 1.1.1.2 if he has been found guilty by a court in Singapore or in any country whose judgements are registrable in Singapore of an offence which would bring discredit to himself or the FPAS;
    - 1.1.1.3 if he has been found guilty in any civil proceedings to have acted fraudulently or dishonestly;
  - 1.1.2 if it is alleged that he has performed his professional work or the duties of his employment or conducted his practice inefficiently or incompetently in such a manner as to bring discredit to himself, the FPAS or the profession;
  - 1.1.3 if he has been found guilty in any disciplinary proceedings instituted against him by the FPAS
  - 1.1.4 if it is alleged that he has contravened or failed to comply with any of the Professional Standards of the FPAS;

- 1.1.5 if he has failed to satisfy a judgment debt or has, individually made an assignment for the benefit of creditors or has, under any resolution of creditors or order of the court or any deed or document, had his estate placed in liquidation for the benefit of creditors or has made any arrangement for the payment of a composition to creditors.
- 1.2 The FPAS may take disciplinary action against any person who has whilst he was a Member been guilty of misconduct or neglect of duty which would have rendered him liable for such action if he had remained as a Member and in such a case, all provisions relating to investigation and discipline shall apply to him as if he were still a Member.

### **Investigation Committee**

#### **2 Appointment**

- 2.1 The FPAS may from time to time appoint one or more committees comprising:
- 2.1.1 4 Members; and
- 2.1.2 a lay person (in relation to an Investigation Committee, means an accountant, architect, banker, advocate and solicitor, company director, insurer, professional engineer, medical practitioner or a person who possesses such other qualifications as may be approved by the FPAS);
- to be known as Investigation Committees to hear and determine any complaint of professional misconduct made against any Member.
- 2.2 Three Members of the Investigation Committee of whom one shall be the lay person shall constitute a quorum.
- 2.3 An Investigation Committee shall be appointed in connection with one or more matters or for a fixed period of time as the FPAS may think fit.
- 2.4 The FPAS may at any time revoke the appointment of any Investigation Committee or may remove any Member of an Investigation Committee or fill any vacancy in an Investigation Committee.
- 2.5 An Investigation Committee shall have powers to co-opt other Members.
- 2.6 Co-opted Members shall be competent to exercise any of the functions conferred upon Members of the Investigation Committee.
- 2.7 An Investigation Committee may act notwithstanding any vacancy in its Membership provided that there is a quorum; and no act done by or under the authority of the Investigation Committee shall be invalid in consequence of any defect that is subsequently discovered in the appointment or qualification of the Members or any of them.
- 2.8 The FPAS shall appoint a Member of an Investigation Committee to be the Chairman of the Committee.
- 2.9 An Investigation Committee shall meet from time to time for the despatch of business and, subject to the provisions of these regulations, may determine its own procedure and the mode of deciding questions before it.

- 2.10 An Investigation Committee shall not be bound to act in a formal manner and shall not be bound by any law relating to evidence but may inform itself on any other matter in such manner as it thinks fit.
- 2.11 An Investigation Committee may appoint a legal adviser who may be present at any inquiry into any matter to advise the Investigation Committee on all matters of law.

### **3 Complaints against Member**

- 3.1 Any Member or any person may in writing bring to the attention of the President/Executive Director any complaint which indicates that a Member may be liable to disciplinary action.
- 3.2 The President/Executive Director may if he thinks fit require that the complaint be supported by one or more statutory declarations.
- 3.3 Where the President/Executive Director has received any complaint or where facts are brought to his knowledge which satisfy him that there may be grounds for such a complaint, he shall lay the complaint or facts, as the case may be, before an Investigation Committee.
- 3.4 The Investigation Committee shall investigate the matter and determine whether or not it is to be referred to the Disciplinary Committee.

### **4 Notice of hearing**

- 4.1 Before any investigation begins in respect of any matter:
  - 4.1.1 the President/Executive Director shall post or deliver to the Member concerned:
    - 4.1.1.1 copies of the written complaint (if any) and of any statutory declaration that may have been made in support of the complaint; and
    - 4.1.1.2 a notice setting out any further particulars that may be necessary to disclose the reason for the investigation and inviting the Member concerned within such period as may be specified in the notice (which shall not be less than 14 days) to give to the President/Executive Director any written explanation he may wish to offer and to advise the Executive Director if he wishes to be heard by the Investigation Committee.
- 4.2 The Investigation Committee shall allow the time specified in the notice to lapse and shall give the Member concerned reasonable opportunity to be heard if he so desires and shall give due consideration to any explanation he may make.
- 4.3 The Investigation Committee shall give the Member concerned not less than 14 days' notice of the time, date and place of the hearing of the case.

### **5 Powers of Investigation Committee**

- 5.1 For the purposes of its investigations, the Investigation Committee may:

- 5.1.1 call upon or employ any person to make whatever preliminary inquiries it thinks necessary;
  - 5.1.2 require the production for inspection by the Investigation Committee or any person so employed of any books, documents or papers which may relate to or be connected with the subject-matter of the investigation; and
  - 5.1.3 require any Member to give all information in relation to any such books, documents or papers which may be reasonably required by the Investigation Committee or by the person so employed.
- 5.2 Any Member who without lawful excuse refuses or fails to produce to the Investigation Committee or to any person whom the Investigation Committee may employ for the purpose of investigation, any books, documents or papers required for him under rule 5.1.3 or fails to give any such information relating thereto shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000

## **6 Matters which Investigation Committee may take into consideration**

- 6.1 The Investigation Committee may take into account any fact or matter which has been considered by an Investigation Committee on any previous occasion in relation to the Member concerned (in respect of which, although a prima facie case has been made out, no case was referred to the Disciplinary Committee) and if it is decided to refer the case to the Disciplinary Committee then the reference may include all or any of the facts and matters which were on each occasion so considered by the Investigation Committee.
- 6.2 Without prejudice to any other action it may take, if the Investigation Committee is of the opinion that the facts and matters laid before it indicate that the Member may be or may have been managing his practice inefficiently or in whatever occupation of a professional nature has been acting inefficiently or incompetently, the Investigation Committee may, in its absolute discretion, advise the Member to obtain advice from such source as the Investigation Committee may determine. If the Member fails to seek such assistance when advised to do so, that fact shall be recorded.

## **7 Hearing before Investigation Committee**

- 7.1 The Member concerned shall be entitled:
  - 7.1.1 to be heard before the Investigation Committee;
  - 7.1.2 to be represented by an advocate and solicitor or a Member as he may wish; and
  - 7.1.3 to call witnesses.
- 7.2 If the Member concerned does not attend the hearing as fixed, the Investigation Committee may proceed to hear the case in his absence provided it is satisfied that notice of the hearing has been given in accordance with rule 4.3.

- 7.3 All evidence given at the hearing of any matter by the Investigation Committee shall be given orally except that the Investigation Committee shall also be entitled to obtain sworn affidavits from any person if it considers them necessary for the better investigation of the matter.
- 7.4 Where a case of a Member who is liable to disciplinary action under rule 1.1.1.2, 1.1.1.3 or 1.1.3 has been referred to the Investigation Committee, the Investigation Committee shall have discretion to treat as proved any fact accepted by the FPAS or by the court, as the case may be, and the Investigation Committee may report to the Disciplinary Committee in such manner as it thinks fit.
- 7.5 The Investigation Committee shall report its findings to the Disciplinary Committee within 3 months from the date of the commencement of investigation. If the Investigation Committee is unable to do so within such period, it may apply to the President for an extension of time of up to 3 months. Any further extension of time thereafter may be granted by the President on such terms and conditions as it thinks fit.

## **Disciplinary Committee**

### **8 Appointment**

- 8.1 The FPAS shall appoint annually a Disciplinary Committee which shall consist of not less than 4 Members of the FPAS.
- 8.2 Three Members of the Disciplinary Committee shall constitute a quorum.
- 8.3 The Disciplinary Committee may, subject to these rules, regulate its own procedures in such manner as it thinks fit.

### **9 Decision of Disciplinary Committee**

- 9.1 Upon consideration of the report of the Investigation Committee, the Disciplinary Committee may order:
- 9.1.1 in the case of a Member:
- 9.1.1.1 that his name be removed from the register and that he shall cease to be a Member;
- 9.1.1.2 that his registration as a Member be suspended for such period as the Investigation Committee may recommend;
- 9.1.1.3 that he be fined a sum not exceeding \$25,000;
- 9.1.1.4 that he be censured;
- 9.1.1.5 that notwithstanding the Investigation Committee's findings, no further action be taken on the case; or

9.1.1.6 that he obtains advice or professional assistance from such source as the Disciplinary Committee thinks appropriate;

- 9.2 The Disciplinary Committee may order the Member concerned to pay to the FPAS such sums as it thinks fit in respect of costs and expenses of and incidental to any investigation and inquiry.
- 9.3 Any penalty imposed or costs and expenses incurred by the FPAS under this section shall be recoverable as a debt due to the FPAS.
- 9.4 The Disciplinary Committee may, where it thinks fit, require an Investigation Committee to consider further evidence and meet for that purpose except that the Member concerned shall be given not less than 14 days' notice of such further meeting of the Investigation Committee.

#### **10 Effective date of decision**

- 10.1 The decision of the Disciplinary Committee shall, unless it is otherwise specified, take effect from the date of the decision.

#### **11 Surrender of Membership certificate**

- 11.1 In the event of the name of a person being removed from the register or of a person being suspended from Membership, the certificate of Membership shall be delivered up by him to the Chief Executive Officer to be cancelled or retained during the suspension, as the case may be.

#### **12 Publication of decision**

- 12.1 The Disciplinary Committee's decision taken under these rules may be published in any official publication of the FPAS. Every Member shall be deemed to have agreed, as part of the conditions to join FPAS, that no civil action in defamation may be brought against the FPAS, its officers or any person employed by it for making such official publication. In addition, the FPAS, its officers or any person employed by it shall have qualified privilege in making such publication.
- 12.2 The Disciplinary Committee's decision taken under these rules may also be referred to the relevant authorities.
- 12.3 For the purpose of this rule, "official publication" includes all local newspapers.

### **3. PUBLIC DISCIPLINE OUTSTANDING**

Currently, there are no individuals who have outstanding public discipline. Public discipline consists of revocations, suspensions, and public letters of admonition discussed in the *Disciplinary Regulations*.