



# FINANCIAL PLANNING COALITION

April 13, 2020

NASAA  
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Submitted electronically via email to [nasaacomment@nasaa.org](mailto:nasaacomment@nasaa.org) and [cenal@michigan.gov](mailto:cenal@michigan.gov)

**RE: *Comment on NASAA Proposed Investment Adviser Representative Continuing Education Program and Implementing Model Rule***

Ladies and Gentlemen:

The Financial Planning Coalition (“Coalition”)<sup>1</sup> – comprised of Certified Financial Planner Board of Standards (“CFP Board”),<sup>2</sup> the Financial Planning Association® (“FPA”),<sup>3</sup> and the National Association of Personal Financial Advisors (“NAPFA”)<sup>4</sup> – appreciates this opportunity to comment on a proposal by the North American Securities Administrators Association, Inc. (“NASAA”) concerning an investment adviser representative continuing education (“IAR CE”) program, including a proposed model rule to implement the proposed IAR CE program.<sup>5</sup> The Coalition appreciates NASAA’s process and the outreach efforts resulting in the IAR CE proposal, including gathering stakeholder input through meetings, surveys and other tools.

The Coalition acknowledges the gap NASAA identified in the continuing education (“CE”) requirements of certain financial service professionals at the state level and recognizes that

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<sup>1</sup> The Financial Planning Coalition is a collaboration of the leading national organizations representing the development and advancement of the financial planning profession. Together, the Coalition seeks to educate policymakers about the financial planning profession, to advocate for policy measures that ensure financial planning services are delivered in the best interests of the public, and to enable the public to identify trustworthy financial advisers. See, <http://financialplanningcoalition.com>.

<sup>2</sup> CFP Board is a non-profit certification and standard-setting organization, which sets competency and ethical standards for almost 86,000 CERTIFIED FINANCIAL PLANNER™ professionals throughout the country. CFP® professionals voluntarily agree to comply with CFP Board’s rigorous standards, including education, examination, experience and ethics, and subject themselves to CFP Board’s disciplinary oversight.

<sup>3</sup> FPA® is the principal membership organization for CFP® professionals and those who support the financial planning process in the U.S. with 22,000 members nationwide. With a national network of 88 chapters and state councils, FPA® represents tens of thousands of financial planners, educators and allied professionals involved in all facets of providing financial planning services. FPA® works in alliance with academic leaders, legislative and regulatory bodies, financial services firms and consumer interest organizations to represent its members.

<sup>4</sup> NAPFA is the nation’s leading organization of fee-only comprehensive financial planning advisors with more than 3,800 members nationwide. NAPFA members are highly trained professionals who adhere to high professional standards. Each NAPFA advisor annually must sign and renew a Fiduciary Oath and subscribe to NAPFA’s Code of Ethics.

<sup>5</sup> Available at <https://www.nasaa.org/wp-content/uploads/2020/02/IAR-CE-Public-Notice-and-Request-for-Comment-02-13-20.pdf>.

NASAA and other regulators,<sup>6</sup> wish to address that gap. The Coalition views this proposal as a positive step to promote IAR CE. We are concerned, however, that, unless the IAR CE program and model rule recognize and accommodate other CE requirements that investment adviser representatives (“IARs”) already must comply with, the proposal may inadvertently and unnecessarily impose duplicative requirements on certain categories of financial professionals, including CERTIFIED FINANCIAL PLANNER™ (“CFP®”) professionals. Accordingly, the Coalition requests that NASAA include an exemption for CFP® professionals in NASAA’s IAR CE program and model rule.

## **I. CFP® Professionals Should be Exempt from NASAA’s IAR CE Program**

Like NASAA, the Coalition values the continued professional competency of its stakeholders who provide financial planning services and advice to the public. CFP® professionals, who constitute a majority of the Coalition organizations’ stakeholders, already are required to complete CE to maintain their credential. The Coalition asks that NASAA’s IAR CE program allow for an exemption of CFP® professionals to “[m]inimize duplicative CE requirements to the extent practicable.”<sup>7</sup>

### *A. CFP Board’s CE Requirement of Individual Certificants is Similar to NASAA’s Proposal*

CFP® professionals should be exempt from NASAA’s proposed state-level IAR CE obligations because the rigorous CE process that is required to maintain the CFP® designation already encompasses many of the requirements in NASAA’s IAR CE proposal. CFP® professionals already are required to complete 30 hours of continuing education (CE) each reporting period.<sup>8</sup> This includes two hours of CFP Board approved Ethics CE, and 28 hours of CE covering one or more of CFP Board’s Principal Topics. Many of these Principal Topics, such as the fiduciary standard of conduct and consumer protection laws,<sup>9</sup> overlap with NASAA’s proposed content on compliance practices, standards, and duties and obligations to clients, including the fiduciary duty. CFP Board also reserves the right to audit CE programs to ensure compliance with its policies and requirements. Additionally, similar to NASAA’s proposal, CFP Board does not allow CE credits to be carried forward into the next reporting period.

### *B. CFP Board’s CE Requirement is Part of a Rigorous Credentialing Process*

CFP Board’s CE requirement is part of a broader certification process that is comprehensive and stringent. In fact, the CFP® certification process is accredited by the National Commission for Certifying Agencies (“NCCA”). The NCCA standards require demonstration of a valid and reliable process for development, implementation, maintenance, and governance of certification programs. The CFP® certification is one of only eight financial services designations accredited by NCCA. Indeed, NCCA accreditation is recognized by the Financial Industry Regulatory Authority, Inc. (“FINRA”), which communicates to investors that “... [m]any state securities and insurance regulators do not allow financial professionals to use a designation – in particular a ‘senior’ designation – unless it has been accredited by either the American National Standards

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<sup>6</sup> FINRA, Request for Comment on a Proposal to Implement the Recommendations of the CE Council Regarding Enhancements to the Continuing Education Program for Securities Industry Professionals, *available at* <https://www.finra.org/rules-guidance/notices/20-05>.

<sup>7</sup> See *supra*, n. 5, at p. 3.

<sup>8</sup> A detailed description of CFP Board’s CE requirements is available at <https://www.cfp.net/career-and-growth/continuing-education/continuing-education-requirements>.

<sup>9</sup> Available at <https://www.cfp.net/get-certified/certification-process/education-requirement/certification-coursework-requirement/what-youll-learn>.

Institute or the [NCCA].”<sup>10</sup> Because the CFP® certification process includes rigorous and comprehensive CE requirements, which is part of a larger process accredited by the NCCA, the Coalition believes that an exemption is appropriate and should be granted to IARs who maintain the CFP® designation.

Exemption of CFP® professionals should be addressed directly in NASAA’s model rule on the IAR CE program, rather than in the accompanying adopting release, guidance, or commentary. However, the Coalition notes that not all credentialing organizations administer a certification process, including CE requirements, as rigorous as that of CFP Board. Should NASAA’s model rule include other designations explicitly in the text, the model rule also should contain assurances that such designations are based on stringent and comprehensive processes similar to CFP Board’s.

#### *C. CFP Board’s Approval Process for CE Sponsors is Similar to NASAA’s Proposal*

CFP Board employs a comprehensive approval process when screening both general and ethics CE sponsors. When determining eligibility of CE providers, CFP Board, much like NASAA’s proposal, focuses on the following criteria:

- Qualifications of instructors, including whether they have any disciplinary history;
- Quality of CE program materials and whether they timely reflect the Principal Topics, which may occasionally change;
- Experience in delivering educational content and training; and
- Ability to track and report course completion.<sup>11</sup>

#### *D. CFP Board’s CE Requirement and NASAA’s Proposal Address the Fiduciary Duty*

The Coalition supports the inclusion of fiduciary duties and obligations as a topic in NASAA’s IAR CE program and model rule. CFP® professionals must abide by CFP Board’s newly revised *Code of Ethics and Standards of Conduct (Code and Standards)*, which became effective October 1, 2019. The *Code and Standards* extends the application of the fiduciary duty owed by CFP® professionals to their Clients, from financial planning services only to all Financial Advice, broadly defined. NAPFA and FPA each have endorsed and support the new *Code and Standards*.

#### *E. Exemption is Consistent with the Investor Protection Purpose of NASAA’s Proposal*

As NASAA indicates in Section 3 of its proposed model rule, many states already waive the Series 65 examination requirement for CFP® professionals, while maintaining investor protections. Additionally, the CFP® designation already meets the proposed provisions in Section (3)(A)-(C):

- IARs who meet the examination waiver requirement by virtue of holding the CFP® designation must complete rigorous CE requirements as a condition of maintaining the credential;
- These CE credits are mandatory to maintain the CFP® certification; and
- The CE content is based on stringent criteria similar to NASAA’s proposal and most likely

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<sup>10</sup> More information is available at <https://www.finra.org/investors/accredited-designations>.

<sup>11</sup> More information on CE program criteria and provider terms and conditions is available at <https://www.cfp.net/for-education-partners/continuing-education-providers>.

would be approved under NASAA's IAR CE program.

**II. Conclusion**

Based on the discussion above, the Coalition respectfully requests that NASAA exempt CFP® professionals from NASAA's IAR CE program and model rule. CFP Board's current CE requirements substantially reflect those in NASAA's proposal and also emphasize the fiduciary duty that CFP® professionals owe to their clients. CFP Board's CE requirement is part of a broad, rigorous and accredited certification process that comprehensively promotes the acquisition of current knowledge and awareness of future trends by CFP® professionals. Similar to NASAA's proposal, CFP Board thoroughly vets all CE sponsors. Consistent with maintaining high standards for investor protection, CFP® professionals today may "waive into" many states as IARs without having to comply with additional examination requirements. For these reasons, the Coalition urges NASAA to be mindful of and to avoid imposing duplicative educational requirements on IARs under NASAA's IAR CE program and model rule.

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The Coalition appreciates the opportunity to comment on NASAA's IAR CE program proposal. Should you have questions, please contact Maureen Thompson, Vice President, Public Policy, CFP Board, at 202-379-2281 or [mthompson@cfpboard.org](mailto:mthompson@cfpboard.org).

Sincerely,



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