


**INSTITUTE OF FINANCIAL PLANNERS OF HONG KONG**  
**Disciplinary Rules and Procedures 2010**

**ARTICLE 1: INTRODUCTION**

- 1.1 The Institute of Financial Planners of Hong Kong (IFPHK) has adopted a Code of Ethics and Professional Responsibility (Code) which establishes minimum standards of acceptable professional conduct for individuals entitled to use the CFP certification marks including CFP<sup>CM</sup>, CERTIFIED FINANCIAL PLANNER<sup>CM</sup> and  (collectively, “the Marks”). Adherence to the Code is mandatory for all CFP certificants and candidates for CFP certification.
- 1.2 To promote and maintain the integrity of the Marks for the benefit of the clients and potential clients of CFP certificants, IFPHK has the ability to enforce the provisions of the Code, as amended from time to time. IFPHK has adopted these Disciplinary Rules and Procedures (Procedures) for the purpose of enforcing the Code.
- 1.3 For the purpose of enforcing the Code and proceedings in this Disciplinary Rules and Procedures, “candidates for CFP certification” shall include APFP certificants and such IFPHK members who have agreed to be abided by and are subject to, among other things, the Code and the disciplinary rules and procedures as adopted by IFPHK from time to time.

**ARTICLE 2: ADMINISTRATION**

**2.1 Professional Ethics Review Board (Board)**

- 2.1.1 The Board, as appointed by the IFPHK Executive Committee from time to time, is charged with the duty of investigating, reviewing and taking appropriate action with respect to alleged violations and alleged non-compliance with the Code and shall have original jurisdiction over all such disciplinary matters and procedures thereof.
- 2.1.2 The Board shall be authorised and empowered to:
- a. Enlist the assistance of CFP certificants and candidates for CFP certification to assist with investigations, or serve temporarily on the Hearing Panel;
  - b. Delegate the power to investigate, conduct hearing and take disciplinary actions against breaches, violations, and/or non-compliance with the Code and/or matters in relation to disciplinary actions against any CFP certificants and/or candidates for CFP certification to the Investigating Officer, the Hearing Panel and/or the Appeal Panel, or such other authorities or persons as it deems fit, and as when required from time to time;
  - c. Periodically report to IFPHK on the operation of the Board;
  - d. Adopt amendments to these Disciplinary Rules and Procedures subject to review and approval by the IFPHK Executive Committee; and
  - e. Adopt such other rules or procedures as may be necessary or appropriate to govern the internal operation of the Board and/or the disciplinary proceedings.
- 2.1.3 Board members shall refrain from participating in any proceedings in which they, a member of their immediate family or a member of their firm has any interest or where such participation otherwise would involve a conflict of interest whether personal or professional, or the appearance of impropriety.

## **2.2 Investigating Officer**

- 2.2.1 The Investigating Officer refers to the individual(s) assigned by IFPHK to oversee the disciplinary process. IFPHK may designate a committee of individuals or one individual, such as an Investigating Officer or a Director, to oversee the disciplinary process. No member of the IFPHK Executive Committee or the Board may serve as the Investigating Officer.
- 2.2.2 The Investigating Officer, having regard to the necessity for expeditiously concluding all disciplinary matters, shall have the power to:
- a) receive requests for investigation from any person or entity;
  - b) initiate an investigation on possible violations, non-compliance and or breaches of the Code in the absence of a third party allegation;
  - c) interview the complainant, the CFP certificant(s) and candidate(s) for CFP certification concerned and any other person relevant to a case;
  - d) examine any books, documents, records and other relevant materials;
  - e) review all files maintained by IFPHK with regard to the CFP certificant and the candidate for CFP certification;
  - f) engage professionals, experts and other persons to assist with an investigation;
  - g) prepare a Formal Complaint for referral to the Hearing Panel designated by the Board from time to time;
  - h) proceed with a Formal Complaint before the Hearing Panel or the Appeal Panel (collectively, the "Panels") and provide information obtained through the investigation to the Panels;
  - i) engage counsel or other qualified individuals to act on behalf of IFPHK in a hearing;
  - j) maintain records of all investigations; and
  - k) do anything else necessary or desirable for the proper discharge of the Investigating Officer's duties pursuant to these Procedures including recommending any changes to these Procedures to the Board.

## **2.3 Hearing Panel**

- 2.3.1 A Hearing Panel shall consist of members of IFPHK who have been designated panel members, enlisted CFP certificants and up to one non-CFP certificant. A Hearing Panel shall consist of at least three persons. At least one member of every Hearing Panel shall be a member of IFPHK and at least two members of every Hearing Panel shall be CFP certificants.
- 2.3.2 Chairman of the Hearing Panel shall be appointed from among members of the Board. The Chairman of the Hearing Panel shall monitor proceedings at the hearing and shall rule on all motions, objections and other matters presented in the course of the hearing.

## **2.4 Appeal Panel**

- 2.4.1 An Appeal Panel shall consist of members of IFPHK who have been designated panel members, enlisted CFP certificants and up to one non-CFP certificant. An Appeal Panel shall consist of at least three persons. At least one member of every Appeal Panel shall be a member of IFPHK and at least two members of every Appeal Panel shall be CFP certificants.
- 2.4.2 Chairman of the Appeal Panel shall be appointed from among members of the Board. The Chairman of the Hearing Panel shall not sit on the Appeal Panel and shall not preside over the Board's consideration of the request for an Appeal. The Chairman of the Appeal Panel shall monitor proceedings at the appeal hearing.

## **ARTICLE 3: GROUNDS FOR DISCIPLINARY ACTIONS**

- 3.1 Misconduct by a CFP certificant or a candidate for CFP certification, individually or in concert with others, including but not limited to the following acts or omissions, shall constitute grounds for disciplinary actions, whether or not the act or omission occurred in the course of a client relationship:

- a. Any act or omission which violates and/or non-compliance with the provisions of the Code;
- b. Any act or omission amounting to mis-conduct, or which may bring the reputation of the Marks into question;
- c. Any act or omission which violates the criminal laws of Hong Kong SAR, or jurisdiction of any other country, provided however, that conviction thereof in a criminal proceeding shall not be a pre-requisite to the institution of disciplinary proceedings, and provided further, that acquittal in a criminal proceeding shall not bar a disciplinary action;
- d. Any act which is the proper basis for professional suspension, as defined herein, provided professional suspension shall not be a pre-requisite to the institution of disciplinary proceedings, and provided further, that dismissal of charges in a professional suspension proceeding shall not necessarily bar a disciplinary action;
- e. Any false or misleading statement and/or declaration made to IFPHK;
- f. Failure to assist in an investigation by the Board;
- g. Failure to respond to a request by the Investigating Officer, without good cause shown, or obstruction of the Investigating Officer, any panels of the Board, the Board, or IFPHK Staff in the performance of its or their duties hereunder; and/or
- h. Any act or omission which violates these Procedures or non-compliance with an order of discipline issued by IFPHK.

3.2 The above list of acts and omissions is not exclusive and other acts or omissions amounting to unethical or unprofessional conduct may constitute grounds for discipline.

#### **ARTICLE 4: DISCIPLINARY ACTIONS**

- 4.1 Following a finding of misconduct, the Hearing Panel may order any one, or a combination, of the following forms of disciplinary actions.
- 4.2 In all circumstances, the Hearing Panel has the right to require CFP certificants or the candidates for CFP certification to complete additional continuing education or other remedial work. Such continuing education or remedial work may be ordered instead of, or in addition to, any disciplinary action listed below.
- 4.3 Forms of Discipline Concerning CFP certificants

Where grounds for disciplinary actions have been established against a CFP certificant, any of the following forms of disciplinary actions may be imposed.

- a) Private Censure

The Hearing Panel or the Appeal Panel, as the case may be, may order private censure of a CFP certificant which shall be an unpublished written reproach sent by ordinary post by IFPHK containing a written censure on the CFP certificant.

- b) Public Letter of Admonition

The Hearing Panel or the Appeal Panel, as the case may be, may order that a Letter of Admonition be issued against a CFP certificant, which shall be a public written reproach of the certificant's behaviour. It shall be standard procedure to publish the Letter of Admonition in a press release or in such other form of publicity elected by the IFPHK, with identification of the CFP certificant. In some cases when the Hearing

Panel or the Appeal Panel, as the case may be, determines that there are mitigating circumstances, it may decide to withhold such publication.

c) Suspension

The Hearing Panel or the Appeal Panel, as the case may be, may order suspension of a CFP certificant's right to use the Marks for a specified period of time, not to exceed five (5) years, for those individuals it deems can be rehabilitated. It shall be standard procedure to publish Suspension in a press release or in such other form of publicity elected by IFPHK, with identification of the CFP certificant. In some cases when the Hearing Panel or the Appeal Panel, as the case may be, determines that there are extreme mitigating circumstances it may decide to withhold publication. CFP certificants receiving a suspension may qualify for reinstatement to use the Marks as provided in Article [11].

d) Revocation

The Hearing Panel or the Appeal Panel, as the case may be, may order permanent revocation of a CFP certificant's right to use the Marks. It shall be standard procedure to publish the Revocation in a press release or in such other form of publicity elected by IFPHK, with identification of the CFP certificant. In some cases when the Hearing Panel or the Appeal Panel, as the case may be, determines that there are extreme mitigating circumstances it may decide to withhold publication. Revocation shall be permanent.

#### **4.4 Required action after revocation or suspension**

After an order of revocation or suspension is being made final, the CFP certificant shall promptly terminate any use of the Marks and in particular shall not use them in any advertising, announcement, letterhead or business card.

#### **4.5 Forms of Discipline Concerning candidates for CFP certification**

4.5.1 Under certain circumstances, the Hearing Panel or the Appeal Panel, as the case may be, may take action in matters involving the conduct of candidates for CFP certification. Action that may be taken in these cases, where grounds have been established, correspond in character and degree to the four forms of discipline described in Articles [4.3], and are correspondingly as follows:

- a. Subject to the candidate meeting all other requirements of certification, certification, if any, of the candidate with a private censure in the candidate's record in the form stated;
- b. Subject to the candidate meeting all other requirements of certification, certification, if any, of the candidate with issuance of a Letter of Admonition, published as applicable, and in the candidate's record in the form stated;
- c. Certification, if any, suspended for a specified period, not to exceed five (5) years; or
- d. Certification, if any, denied.

4.5.2 In the event of either a suspension or a denial of certification, the fact of such suspension or denial shall be publishable at the discretion of the Hearing Panel or the Appeal Panel, as the case may be. A candidate for CFP certification who has been the subject of an order to suspend certification may seek to re-apply for certification. Such candidates, in addition, shall meet the requirements of original certification.

## **ARTICLE 5: INVESTIGATION**

### **5.1 Commencement**

Proceedings involving a possible ground for disciplinary action shall be commenced upon a written request for investigation (Request for Investigation) made by any person (Complainant) or at the request of the Board.

### **5.2 Investigation**

- 5.2.1 Upon receipt of a Request for Investigation, the Investigating Officer shall send a written notice (Notice of Investigation) to the CFP certificant or the candidate for CFP certification (collectively, the "Respondent"), as the case may be, setting out details of the allegations and make such inquiries as he/she deems appropriate in his/her investigation.
- 5.2.2 The Investigating Officer may also make such inquiry with the Complainant or such other organisations or authorities as he/she deems appropriate.
- 5.2.3 The Investigating Officer shall have regard to all documents and information obtained in the course of his/her investigation, and make an initial determination of the merits of the case. The Investigating Officer may either:
- a) dismiss the allegations as being without merit, and notify the Respondent and the Complainant in writing of the reasons of such dismissal; or
  - b) prepare a Formal Complaint against the Respondent, setting out the alleged grounds for disciplinary action.
- 5.2.4 A Respondent has an obligation to cooperate fully and shall make available to the Investigating Officer upon request, any relevant documents and records in his/her possession. Failure to do so is itself a ground for disciplinary action pursuant to Article [3].

### **5.3 Formal Complaint**

- 5.3.1 The Respondent shall have twenty (20) calendar days from the date of the Formal Complaint to file a response (Response) with IFPHK. A Response shall be in writing and be supported by such documents relevant to the allegations. In the Response, the Respondent shall respond to every material allegation contained therein and may set forth any defense or mitigating circumstances.
- 5.3.2 Upon receipt of the Response, the Investigating Officer shall review the relevant materials and determine if there is probable cause to believe grounds for disciplinary action exist. The Investigating Officer may either:
- a) dismiss the allegations as not warranting further action;
  - b) dismiss the allegations with a letter of caution recommending remedial action and/or entering other appropriate orders; or
  - c) refer the matter to the Board for the initiation of a Disciplinary Hearing.
- 5.3.3 The Investigating Officer may extend the time, by application, for a Respondent to respond to a Formal Complaint.
- 5.3.4 If no Response has been filed at the expiration of the time allowed, the Respondent shall be deemed to be in default and the allegations set forth in the Formal Complaint shall be deemed admitted. The matter shall be referred to the Board for the initiation of a Disciplinary Hearing.
- 5.3.5 When the Investigating Officer determines that the matter should be referred to the Board for the initiation of a Disciplinary Hearing, he/she shall compile all documents and materials in a

report (Disciplinary Report) and submit together with a request that a Hearing Panel be established and for a hearing (Request for Hearing) to the Board. A copy of the Disciplinary Report shall be delivered to the Complainant and the Respondent, as soon as is reasonably practicable.

#### **5.4 Discovery**

5.4.1 Discovery may be obtained only after a Formal Complaint has been issued. The Respondent may request for copies of IFPHK documents in his/her disciplinary file which are not privileged and which are relevant to the subject matter in the pending action before the Hearing Panel.

5.4.2 Requests for documents must be made to the Investigating Officer in writing.

5.4.3 Release of information contained in a Respondent's disciplinary file is premised on the understanding that materials will be used only for purposes directly connected to the pending IFPHK Disciplinary Action.

#### **5.5 Withdrawal of Complaint**

The Investigating Officer may at any time prior to the Disciplinary Hearing, withdraw the Formal Complaint before the Hearing Panel, and shall so notify the Complainant and the Respondent.

### **ARTICLE 6: SETTLEMENT PROCEDURE**

6.1 A CFP certificant or a candidate for CFP certification, as the case may be, against whom proceedings are pending pursuant to these Procedures may, after the issuance of a Formal Complaint and no later than fifteen (15) days prior to the hearing, tender an Offer of Settlement in exchange for a stipulated form of disciplinary action. The Offer of Settlement shall be in writing and must be submitted to the Investigating Officer for his/her recommendation prior to being tendered to the Hearing Panel who will act upon such request. Submitting an Offer of Settlement shall suspend all proceedings conducted pursuant to these Procedures.

6.2 Offers of Settlement may be made where the nature of the proceeding, and the interests of the public and IFPHK permit. A CFP certificant or a candidate for CFP certification, as the case may be, shall be permitted to submit only one Offer of Settlement during the course of a disciplinary proceeding. The Offer must be made in conformity with the provisions of this Article [6] and should not be made frivolously or propose an action inconsistent with the seriousness of the violations alleged in the proceedings. Every Offer of Settlement shall contain and describe in reasonable detail:

a. the act or practice which the CFP certificant or the candidate for CFP certification, as the case may be, is alleged to have engaged in or omitted;

b. the principle, rule, regulation, or statutory provision which such act, practice or omission to act is alleged to have been violated;

c. a statement that the CFP certificant or the candidate for CFP certification, as the case may be, consents to findings of fact and violations consistent with the statements contained in the offer required by paragraphs 6.2(a) and (b);

d. proposed disciplinary action to be taken and a statement that the CFP certificant or the candidate for CFP certification, as the case may be, consents to the proposed disciplinary action; and

e. a waiver of all rights of review and appeal to any panels of the Board or to IFPHK and the courts or to otherwise challenge or contest the validity of the disciplinary actions ordered if the Offer of Settlement is accepted.

- 6.3 If the Offer of Settlement is accepted by a Hearing Panel, the decision of the Hearing Panel shall be reviewed by the Board. The Board's decision to affirm the decision of the Hearing Panel shall conclude the proceeding as of the date the Offer of Settlement is accepted. If the Offer of Settlement includes a penalty of revocation or suspension, the revocation or suspension shall become effective immediately upon acceptance by the Hearing Panel and affirmation by the Board.
- 6.4 If the Offer of Settlement is rejected by a Hearing Panel, the Offer of Settlement shall be deemed void and the matters raised in the Formal Complaint will be set for hearing with a new Hearing Panel. The CFP certificant or the candidate for CFP certification, as the case may be, shall not be prejudiced by the prior Offer of Settlement, and it shall not be given consideration in the determination of the issues involved in the pending or any other proceedings.
- 6.5 If the Hearing Panel deems appropriate, it may make a Counter Settlement Offer to the CFP certificant or the candidate for CFP certification, as the case may be, modifying the proposed finding(s) of fact, violation(s), non-compliance and/or discipline. If the Counter Settlement Offer is rejected by the CFP certificant or the candidate for CFP certification, as the case may be, the Offer of Settlement and Counter Settlement Offer shall be deemed void and the matters raised in the Complaint will be set for hearing with a new Hearing Panel. The CFP certificant or the candidate for CFP certification, as the case may be, shall not be prejudiced by the prior Offer of Settlement or the Counter Settlement Offer, and neither shall be given consideration in the determination of the issues involved in the pending or any other proceedings.
- 6.6 If the Settlement results in a revocation, suspension, or otherwise results in a termination of the CFP certificant's rights to use the Marks, it will be standard procedure to publish such fact together with identification of the CFP certificant in a press release, or in such other form of publicity elected by IFPHK.

## **ARTICLE 7: DISCIPLINARY HEARINGS**

### **7.1 Notice of Hearing**

- 7.1.1 Upon receipt of a Request for Hearing from the Investigating Officer, the Board shall, without any reference to the facts and merits of the matter, establish a Hearing Panel.
- 7.1.2 Following the appointment of the Hearing Panel, IFPHK shall arrange a date, time and venue for the disciplinary hearing. A Notice of Hearing shall be given by IFPHK to the Investigating Officer, the Complainant, and the Respondent no later than thirty (30) calendar days before the scheduled hearing date. The notice shall provide the Respondent with details of the relevant evidence to be relied upon by the Investigating Officer at the hearing, including, where applicable, names of any witnesses, and designate the time, date and venue of the hearing.

### **7.2 Submission**

- 7.2.1 The Respondent shall have fifteen (15) calendar days from the date of the Notice of Hearing to file a written submission (Submission), supported by all relevant documents or evidence, with respect to the substance of the allegations and in support of his/her defense, together with any mitigating circumstances. The Respondent shall also state in his/her Submission whether he/she wishes to attend the hearing to present his/her case, the names, addresses and telephone numbers of his/her legal representatives, where applicable, and any witness he/she wishes to invite for the defense of his/her case. The Submission shall be sent to IFPHK, the Investigating Officer, the Complainant and the Hearing Panel.
- 7.2.2 The Hearing Panel shall have the discretion to extend the time, by application, for the Respondent to file a Submission.

7.2.3 If no Submission has been received by IFPHK at the expiration of the time allowed, the Respondent shall be deemed to be in default and all allegations shall be deemed admitted. In such circumstances, no further evidence or extension of time shall be allowed and the hearing shall be convened as scheduled. The Hearing Panel shall make an Order of Revocation stating clearly the reasons and grounds for revocation of the CFP certificant's right to use the Marks. The Order of Revocation made under this Article shall be subject to a right of appeal as contained in Article [8].

### **7.3 Procedure and Proof**

7.3.1 The Hearing is intended to be a fact-finding process and be conducted in conformity with such rules of procedure and evidence as established by the Hearing Panel. It shall not be necessary that rules of procedure and evidence applicable in a court of law are followed in any hearing, but the Hearing Panel may be guided by such rules to the extent they believe it is appropriate.

7.3.2 Proof of a ground for disciplinary action shall be established on balance of probabilities.

#### **7.3.3 Respondent**

a) If a Respondent who had indicated his/her attendance at the hearing but failed to attend on the scheduled hearing date and time and does not give prior notification to the Hearing Panel, the hearing may be conducted in his/her absence.

b) The Respondent may not be required to testify or to produce records if to do so would be in violation of his/her constitutional privilege against self-incrimination in a court of law.

c) In making any recommendation, the Hearing Panel may take into consideration the Respondent's prior disciplinary record, if any.

#### **7.3.4 Complainant**

The Complainant shall have the right to present at any hearing 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 Respondent or the Investigating Officer but cannot be compelled to give evidence.

7.3.5 Any procedural defect will not render the hearing proceedings and/or decision by the Hearing Panel invalid.

### **7.4 Decision of the Hearing Panel**

7.4.1 The Hearing Panel shall determine either:

a) that the allegations are not proved on balance of probabilities or that the facts as established do not warrant the imposition of disciplinary action and recommend the allegations be dismissed, either as without merit or with caution; or

b) that the allegations are proved on balance of probabilities and that disciplinary action is warranted and recommend an appropriate sanction.

7.4.1 The Hearing Panel shall make a decision by simple majority.

7.4.2 The Chairman of Hearing Panel shall record its findings of fact and recommendations (Order) and shall send the Order of the Hearing Panel to the Investigating Officer, the Respondent and the Complainant, no later than thirty (30) calendar days after the disciplinary hearing.

- 7.4.3 A decision by the Hearing Panel shall not take effect until upon the expiration of the prescribed time for a Request for Appeal to be lodged, or if a Request for Appeal has been lodged, the Appeal Panel has determined the matter.

## **ARTICLE 8: APPEALS AND APPEAL HEARINGS**

- 8.1 Either party may lodge an appeal on the ground that there has been a significant and material error interpreting a provision of the Code or on the finding of facts before the Hearing Panel, such that the Hearing Panel would likely have reached a different decision but for that error.
- 8.2 A Request for Appeal shall be submitted to the IFPHK within fifteen (15) calendar days after the Order of the Hearing Panel is sent to the parties. Upon a Request for Appeal being filed by an appellant, all disciplinary penalties shall be suspended immediately pending the conclusion of the appeal hearing.
- 8.3 Upon receipt of a Request of Appeal, the Board shall, without any reference to the facts or merits of the case, establish an Appeal Panel.
- 8.4 Following the appointment of the Appeal Panel, IFPHK will arrange a date, time and venue for the appeal hearing. A Notice of Hearing shall be given by IFPHK to the appellant and the respondent to the appeal no later than forty-five (45) calendar days before the scheduled appeal hearing date. The notice shall designate the time, date and venue of the hearing.
- 8.5 The appellant shall deliver to IFPHK, the Appeal Panel and the respondent to the appeal, no later than thirty (30) calendar days prior to the scheduled appeal hearing date, a written submission setting out the grounds for appeal and the relief sought. The submission should be accompanied by a copy of the Order of the Hearing Panel.
- 8.6 The respondent to the appeal may make a written submission to IFPHK, and copied to the Appeal Panel and the appellant, no later than fifteen (15) calendar days prior to the scheduled appeal hearing date.
- 8.7 The Appeal Panel shall have the discretion to extend the time, by application, for the parties to file a submission.
- 8.8 If no submissions has been received by IFPHK at the expiration of the time allowed by either of the parties, the appeal hearing shall be convened as scheduled and no further evidence or extension of time shall be allowed.
- 8.9 Both parties may make oral submissions at the Appeal Hearing. No new evidence shall be admitted at the Appeal Hearing except with leave of the Appeal Panel.
- 8.10 The Appeal Panel shall make a decision by simple majority and its decision, with reasons, shall be delivered within fifteen (15) calendar days from the date of the appeal hearing. The Appeal Panel may vary any penalty ordered by the Hearing Panel or make such other orders as it sees fit.
- 8.11 Decision of the Appeal Panel is final and there is no further right of appeal. A written copy of the final decision and the Order of the Appeal Panel will be provided to the parties.

## **ARTICLE 9: BANKRUPTCY, CONVICTION OF A CRIME OR PROFESSIONAL SUSPENSION OF CFP CERTIFICANT**

- 9.1 For the purpose of these Procedures,

“Bankruptcy Order” shall mean and include the bankruptcy order made under the provisions of the Bankruptcy Ordinance (Cap. 6, Laws of Hong Kong) or any relevant Act relating to

bankruptcy which has the effect of declaring that an official receiver be appointed as provisional trustee of the property of a bankrupt.

“Serious Crime” shall include: (1) any felony; (2) any lesser crime, a necessary element of which as determined by its statutory or common law definition involves misrepresentation, fraud, extortion, misappropriation or theft; and/or (3) an attempt or conspiracy to commit such crime, or solicitation of another to commit such crime.

“Professional Suspension” shall include the suspension or bar as a disciplinary measure by any governmental or industry self-regulatory authority of a licence as a registered securities representative, broker/dealer, insurance or real estate salesperson or broker, insurance broker, attorney, accountant, investment adviser or financial planner.

9.2 Except as other provided in these Procedures,

(a) a certificate from the clerk of any court of criminal jurisdiction indicating that a CFP certificant has been convicted of a crime in that court; or

(b) a letter or other writing from a governmental or industry self-regulatory authority to the effect that a CFP certificant has been the subject of an order of professional suspension; or

(c) an order from a court or a letter or other form of writing from a relevant governmental body or authority to the effect that a CFP certificant has been the subject of a bankruptcy order,

shall conclusively establish the existence of such conviction, such professional suspension or such bankruptcy order for purposes of disciplinary proceedings and shall be conclusive proof of the commission of that crime or of the basis for such suspension or such bankruptcy, by the CFP certificant.

9.3 Every CFP certificant, upon being convicted of a crime, except misdemeanour traffic offences or traffic ordinance violations unless such offence involves the use of alcohol or drugs, or upon being the subject of professional suspension or a bankruptcy order, shall notify IFPHK in writing of such conviction, suspension or bankruptcy within ten (10) calendar days after the date on which the CFP certificant is notified of the conviction or suspension or been granted the bankruptcy order.

9.4 Upon receiving notification of a CFP certificant’s criminal conviction other than misdemeanour traffic offences or traffic ordinance violations, or professional suspension, or the bankruptcy order, the Investigating Officer shall file a Formal Complaint against the CFP certificant. The CFP certificant shall have the right to be heard by the Hearing Panel on matters other than proof of the conviction, suspension or bankruptcy but for rebuttal of evidence presented by the Investigating Officer.

9.5 If the CFP certificant’s criminal conviction other than misdemeanour traffic offences or traffic ordinance violations, professional suspension or bankruptcy order is proved or admitted as provided herein, the Investigating Officer may issue an Order to Show Cause for the initiation of a Show Cause Hearing to decide whether the CFP certificant’s right to use the Marks should be suspended.

9.6 A CFP certificant subject to the suspension of rights to use the Marks under this Article shall have the suspension vacated immediately upon filing with the Board a certificate demonstrating that the underlying criminal conviction or professional suspension has been reversed, or that the bankruptcy order has been discharged; provided, however that, the reinstatement upon such reversal shall have no effect on any proceeding conducted pursuant to the Procedures then pending against a CFP certificant.

## **ARTICLE 10: SHOW CAUSE HEARING AND INTERIM SUSPENSION**

- 10.1 Interim suspension is the temporary suspension by IFPHK of a CFP certificant's right to use the Marks for a definite or indefinite period of time, while disciplinary proceedings are pending or ongoing. Imposition of an interim suspension shall not preclude the imposition of any other form of discipline to be ordered by IFPHK and/or the Hearing Panel or the Appeal Panel in final disposal of the disciplinary proceedings.
- 10.2 When circumstances require, the Investigatin Officer may issue an Order to Show Cause to the CFP certificant requesting a response on why the CFP certificant's right to use the Marks should not be suspended during the pendency of a disciplinary proceeding. Circumstances which could trigger the issuance of an Order to Show Cause shall include but not limited to:
- a) the CFP certificant has been convicted of a serious crime;
  - b) the CFP certificant has been the subject of a professional suspension;
  - c) the CFP certificant has converted property or funds, engaged in conduct which poses an immediate threat to the public; or
  - d) the CFP certificant has engaged in conduct the gravity of which impinges upon the stature and reputation of the Marks.
- 10.3 The CFP certificant shall have twenty (20) calendar days from the date of the Order to Show Cause to file a written response with IFPHK. The CFP certificant may, in the response, indicate whether he/she intends to attend the Show Cause Hearing.
- 10.4 If the CFP certificant fails to file the response within the prescribed time, he/she shall be deemed to have waived his/her right to respond and the allegations set forth in the Order to Show Cause shall be deemed admitted. An interim suspension will automatically be issued by the Investigating Officer.
- 10.5 Upon receiving the response to the Order to Show Cause, the Investigating Officer shall request a Hearing Panel be established for the matter as soon as possible. A Show Cause Hearing shall be scheduled before the Hearing Panel and Notice of Hearing shall be provided to the CFP certificant no later than fourteen (14) calendar days before the scheduled hearing date. The notice shall designate the time, date and venue of the hearing and shall also advise the Respondent that he/she is entitled to be present or represented by counsel at the hearing.
- 10.6 An interim suspension will be issued if the CFP certificant fails to prove, on a balance of probabilities, that he/she does not pose an immediate threat to the public; and/or the gravity of the nature of his/her conduct does not impinge upon the stature and reputation of the Marks.
- 10.7 The fact that a convicted or suspended CFP certificant is seeking appellate review of the conviction or suspension shall not limit the power of a Hearing Panel to impose an interim suspension. It shall be standard procedure to publish the fact of an interim suspension together with identification of the CFP certificant in a press release.

## **ARTICLE 11: REINSTATEMENT AFTER DISCIPLINARY ACTION**

### **11.1 After Revocation**

Revocation shall be permanent, and there shall be no opportunity for reinstatement.

## **11.2 Reinstatement After Suspension**

Unless otherwise provided by the Hearing Panel, a CFP certificant who has been suspended for a period of one (1) year or less shall be automatically reinstated upon the expiration of the period of suspension, provided the CFP certificant files with IFPHK within thirty (30) calendar days of the expiration of the period of suspension an affidavit stating that the suspended CFP certificant has fully complied with the order of suspension and with all applicable provisions of these Procedures, unless such condition is waived by the Board in its discretion. A CFP certificant who has been suspended for a period longer than one (1) year must petition the Board for a reinstatement hearing within six months of the end of his/her suspension, or failure to do so will result in administrative relinquishment. Before any reinstatement hearing will be scheduled, the CFP certificant must meet all administrative requirements for re-certification, pay the reinstatement hearing costs and provide evidence, if necessary, that all prior hearing costs have been paid. At the reinstatement hearing, the CFP certificant must prove by clear and convincing evidence that the CFP certificant has been rehabilitated, has complied with all applicable disciplinary orders and provisions of these Procedures, and that the CFP certificant is fit to use the Marks.

## **11.3 Investigation**

Immediately upon receipt of a petition for reinstatement, Investigating Officer will initiate an investigation. The petitioner shall cooperate in any such investigation, and the Investigating Officer shall submit a report of the investigation to the Board which shall report on the petitioner's past disciplinary record and any recommendation regarding reinstatement.

## **11.4 Successive Petitions**

If an individual is denied reinstatement, he/she must wait two (2) years to again petition for reinstatement. The second petition must be received by the Board within six (6) months of the expiration of the two (2) year period, and failure to submit a second petition within this time period will result in the individual's right to use the marks being administratively relinquished. If this second petition is denied, the individual's right to use the Marks shall be administratively relinquished.

## **11.5 Reinstatement Fee**

Petitioners for reinstatement will be assessed the costs of the reinstatement proceeding.

## **ARTICLE 12: CONFIDENTIALITY OF PROCEEDINGS**

### **12.1 Confidentiality**

Except as otherwise provided in these Procedures, all proceedings conducted pursuant to these Procedures shall be confidential and the records of the Board, Panels, Investigating Officer and the IFPHK Staff shall remain confidential and shall not be made public.

### **12.2 Exceptions to Confidentiality**

12.2.1 The pendency, subject matter and status of proceedings conducted pursuant to these Procedures may be disclosed if (1) the proceeding is predicated on criminal conviction or professional suspension as defined herein; or (2) the CFP certificant or the candidate for CFP certification, as the case may be, has waived confidentiality; or (3) such disclosure is required by legal process of a court of law or other governmental body or agency having appropriate jurisdiction.

12.2.2 If at any stage of any proceedings conducted pursuant to these rules and procedures, the Investigating Officer or the Panels consider that there is a likelihood that a breach of the financial services or other applicable law may have been committed, then they may refer the matter to such appropriate regulatory or enforcement authority.

12.2.3 Notwithstanding the above, the Board may at any time it deems fit, enter into a memorandum of understanding with any other regulatory or enforcement authority in relation to the exchange of information concerning an investigation or a complaint.

### **ARTICLE 13: COSTS**

In all disciplinary cases wherein a hearing is convened, the Board will assess against the Respondent the costs of the proceedings. In addition, the Respondent who desires an appearance, either telephonically or in person, or who submits an Offer of Settlement pursuant to Article [6], will be required to submit hearing costs not less than thirty (30) days prior to the date of the scheduled hearing date. In the event that the hearing results in a dismissal without merit, the Board shall have the discretion to refund the hearing fee to the Respondent; the Respondent may specifically request that the Board consider refunding the hearing fee but such request must be made to the Hearing Panel in the Respondent's hearing submission or at the hearing. Hearing costs will not be refunded if the hearing results in any action other than a dismissal without merit. A Respondent who petitions for reinstatement from a suspension or revocation or who petitions for appeal shall bear the costs of such proceeding.

### **ARTICLE 14: NOTICE AND SERVICE**

14.1 Except as may otherwise be provided in these Procedures, notice shall be in writing and the giving of such notice and the service thereof shall be sufficient when sent to the last known address or the fax number of the CFP certificant or the candidate for CFP certification according to the records maintained by IFPHK.

14.2 Service shall be deemed effective:

- a) on the date of delivery by hand or by fax;
- b) on the fourth business day after sending by registered mail to an address in Hong Kong;
- c) on the tenth business day after sending by registered mail to an address in Macau or the mainland of the People's Republic of China; and
- d) on the tenth business day after sending by airmail (or an equivalent mode of delivery) to an address outside of Hong Kong, Macau or the mainland of the People's Republic of China.