

Nerd's Eye View

Commentary on financial planning news and developments

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Posted by Michael Kitces at 13:53

State Farm backs away from CFP designation

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In a message board thread on financial-planning.com, initiated by Harold Evensky, there is an interesting discussion of the fact that apparently State Farm has directed all of their agents to voluntarily relinquish their CFP marks. It appears that an overarching fiduciary standard is "not conducive to [their] business model."

The message board thread, which can be seen [here](#), begins with a memo allegedly distributed to State Farm agents, informing them that they are expected to voluntarily relinquish their CFP certifications by December 31, 2008, and will no longer be allowed use to the marks on their business cards or for marketing and advertising.

This shift in policy from State Farm - an organization that has actually supported the fiduciary standard in the past with respect to financial planning and runs an internal personal financial planning (PFP) training program for its agents - appears to stem from the fact that under the CFP Board's Code of Ethics it is no longer acceptable to utilize the "two hat" model of financial planning. The two hat model, which has been applied by many brokerage firms to deliver financial planning and subsequently implement its recommendations, is predicated on the assumption that a single financial planner can engage in a fiduciary financial planning relationship, and then "finish" the financial plan and subsequently engage in a non-fiduciary implementation phase. For example, the planner provides a comprehensive financial plan delivered in a fiduciary context with certain recommendations, thereby completing the planning engagement, and then proceeds to implement the insurance, investment, and other solutions on a non-fiduciary basis "because the fiduciary portion of the engagement has ended."

In the CFP Board's interpretation of its revised Code of Ethics, the fiduciary scope of the engagement does not end with the termination/completion/delivery of the written financial plan, notwithstanding the fact that the "formal" engagement may end at that point. As the CFP Board interprets its own rules, it believes that a de facto fiduciary relationship must still exist, and therefore all subsequent product implementation is still within the fiduciary financial planning context. To avoid this result, the planner would be expected and required to refer out the implementation to an unrelated party.

The subsequent responses in the thread range from support to frustration, as you can read further for yourself. To me, though, the CFP Board has drawn a notable line in the sand now in rejecting that the two-hat model can allow for a beginning and end of the fiduciary phase followed by a non-fiduciary implementation phase - and they're willing to stand their ground in the face of losing a significant number of CFP certificants who operate under State Farm (and perhaps other organizations in the future?).

Having witnessed both the two-hat model in action, and being aware of some training programs for it from other broker-dealer organizations (in one, the trainer literally brought two different hats to wear to help illustrate for the agents when the fiduciary financial planning hat came off and the implementation hat was put on), I have to admit that I think this is a positive step. Legal wrangling and fine print aside, I simply don't see how it is possible for someone to engage in a fiduciary process of crafting recommendations, and not have the client expect that the fiduciary relationship will continue to the phase of implementation the recommendations, notwithstanding what the fine print says.

On the other hand, there is still a lot of difficult ground to tread on this issue. Thus far, financial planning appears to be heading more towards the medical model, where the doctor completes the diagnosis and recommendations and is paid for those services, but is expected to not receive a commission for the prescription/implementation of certain drugs to treat the client (those are bought directly from the drug companies or their third-party distributors). Alternatively, though, the legal profession seems to have found a way to navigate the professional ethics of both advice and implementation, as evidenced by estate planners who provide advice and then are paid to craft and implement their own trust and estate documents, as well as the lawyers in any number of sub-specialties who operate on a contingency fee basis that is arguably very similar to a financial planner receiving a commission or performance fee for implementing products.

So in the end, is it necessary to declare that fiduciaries cannot be associated with the implementation phase at all (as many I know would advocate)? That I don't know. I think a dialogue around whether products can be implemented in a fiduciary manner is something our emerging profession must continue. But do I think the CFP Board is right to state that once the fiduciary advice process begins, it can't simply transform at some point to a non-fiduciary implementation phase? Yes. Even the lawyers acknowledge that when they implement solutions, the work that they craft to implement is subject to the same fiduciary standard as the recommendations that preceded it.

In the meantime, though, major organizations still seem terrified to accept the fiduciary mantle for all of their representatives through the implementation phase. I suspect that State Farm may not be the last to walk away from the CFP marks in order to avoid a fiduciary standard that is "not conducive to [their] business model" - at least, until/unless Congress or a regulatory agency ultimately imposes such a standard anyway. I'm sure many would cheer a more universal fiduciary standard. On the other hand, many commentators would also suggest that if fiduciary duty is imposed, the costs to provide services will rise significantly, driving the affordability of financial planning further away from what most consumers are willing to pay. How do we balance the cost of professional liability with the deliver of affordable advice?

What do you think about these issues? Feel free to weigh in on the [financial-planning.com thread](#), or post in the comments section!