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Ethics for Financial Professionals Amplifying the NAIFA Code of Ethics with the FSP Code of Professional Responsibility

Executive Summary

On July 24, 2024, the NAIFA Board of Trustees approved “Ethics for Financial Professionals” to incorporate the FSP Code of Professional Responsibility within the ethical standards of NAIFA. This document explains each tenet of the NAIFA Code of Ethics with applicable text from the FSP Code.

As the first national association code of ethics for financial professionals, the NAIFA Code of Ethics has been updated over time as the profession has evolved. In its original form, the Code was first adopted in September 1918 as the Chart of Ethics. A significant revision was made in September 1936, which formed the basis for the Code of Ethics, which has been revised as needed since that time.

Adherence to the Code of Ethics is a requirement for NAIFA membership to ensure that NAIFA promotes ethical conduct among financial professionals and maintains a qualified membership. Accordingly, the Code of Ethics is the basis for setting expectations for member behavior and for evaluating allegations of conduct unbecoming a member.

The FSP Code of Professional Responsibility has its origins in the Code of Ethics adopted in 1961 by the American Society of CLU & ChFC. The current FSP Code was established in 1998, when the Society became the Society of Financial Service Professionals and broadened its membership constituency.

With the merger of NAIFA and FSP, harmonization of the NAIFA and FSP ethics codes is appropriate due to their parallel requirements and complimentary content. “Ethics for Financial Professionals” maintains the NAIFA Code of Ethics and incorporates the FSP Code of Professional Responsibility to explain, amplify, and illustrate the NAIFA Code’s aspirational obligations.

This primer provides a framework to illustrate the application of the NAIFA Code’s obligations. Use of the FSP Code to help explain the conduct expected of members, and to provide benchmarks for determining appropriate behavior and conduct unbecoming a member, elevates NAIFA’s commitment to ethical conduct by enhancing the ability of members to understand and evaluate ethical situations.

With the NAIFA Code of Ethics positioned as the ideals that define ethical behavior for financial professionals, and the FSP Code of Professional Responsibility delineating standards, rules, and illustrations to apply the NAIFA Code, the proud history of professionalism of both NAIFA and FSP can be preserved and enhanced, to better promote ethical conduct for an expanded association membership.

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All NAIFA members are required to adhere to the NAIFA Code of Ethics, which is comprised of 9 foundational Obligations.

The purpose of the Code of Ethics is explained in its Preamble, which states: "Helping my clients protect their assets and establish financial security, independence and economic freedom for themselves and those they care about is a noble endeavor. This deserves my promise to support high standards of integrity, trust and professionalism throughout my career as an insurance and financial professional."

To better understand the obligations contained in the NAIFA Code of Ethics, the FSP Code of Professional Responsibility is used below to identify the standards that each obligation imposes and to illustrate how ethical obligations are applied. Taken together, the language and explanation of the NAIFA and FSP Codes can guide all financial professionals when serving others.

- **NAIFA Code of Ethics - Obligation 1 (Confidentiality)**: I freely accept the obligation "To help maintain my clients' confidences and protect their right to privacy."

The FSP Code explains that a member must respect the confidentiality of information entrusted to, or obtained in the course of, the member's business or professional activities. A financial professional often gains access to client records and company information of a sensitive nature. Each member must maintain the highest level of confidentiality with regard to this information.

The following rules set standards for adherence to the Confidentiality Obligation, and the accompanying applications illustrate how such rules may be followed in practice –

Rule 1.1 – A member shall respect and safeguard the confidentiality of sensitive client information obtained in the course of professional activities. A member shall not divulge such information without the specific consent of the client unless disclosure of such information is required by law or necessary to discharge legitimate professional duties.

Application of Rule 1.1 – Examples of sensitive client information include, but are not limited to, medical data, information about financial status, Social Security or credit card numbers, information about personal relationships, etc. In determining whether information is sensitive, a member should take a cautious approach, and if in doubt, discuss the issue with the client.

Rule 1.2 – A member shall respect and safeguard the confidentiality of sensitive company/employer information obtained in the course of professional activities. A member shall not divulge such information without specific consent unless disclosure of such information is required by law or necessary to discharge legitimate professional duties.

Rule 1.3 – A member shall ensure that confidentiality practices are established and maintained by a member's staff, including appropriate cyber security measures, so that breaches of confidence are not the result of intentional or unintentional acts or omissions.

Application of Rule 1.3 – A financial professional who employs others who work with sensitive, confidential client information has the responsibility to train these employees in the handling of such information. These employees must be instructed that they will be held responsible for unauthorized disclosure of confidential data.

- **NAIFA Code of Ethics - Obligation 2 (Diligence)**: I freely accept the obligation "To work diligently to satisfy the needs of my clients by acting in their best interest."

The FSP Code explains that a member must provide professional services with integrity and place the client's interest above their own. Integrity involves honesty. A professional's honesty and candor

should not be subordinate to personal gain or advantage. To be dishonest with others is to use them for one's own purposes.

The following rules set standards for adherence to the Diligence Obligation, and the accompanying applications illustrate how such rules may be followed in practice –

Rule 2.1 – A member shall make and/or implement only recommendations that are appropriate for a client, consistent with a client's goals, and in the client's best interest.

Application of Rule 2.1 – Financial professionals must use their best efforts to (a) understand a client's personal and financial background and experience; (b) understand a client's risk tolerance; and (c) educate clients about the various options available to meet identified needs and goals. These efforts may include utilizing a fact-finding or risk assessment tool, one-on-one education sessions, or sharing articles, etc. Members are cautioned against providing advice if they are not properly licensed, authorized, or experienced to do so. Ensuring that recommendations to clients are appropriate to client needs must take precedence over any sales incentives available to a financial professional.

Rule 2.2 – A member shall avoid any conduct or activity that would cause unnecessary harm to others by (a) any act or omission of a dishonest, deceitful, or fraudulent nature; or (b) pursuit of financial gain or other personal benefits that would interfere with the exercise of sound professional judgment.

Rule 2.3 – In providing professional services to a client, a financial professional has a duty to maintain the type and degree of professional independence that (a) is required of practitioners in the professional's occupation, to avoid or address conflicts of interest, and (b) is in the client's best interest, given the nature of the service provided.

Application of Rule 2.3 – Financial professionals who are contractually bound to sell the products of only one company, or a select group of companies, must keep paramount their ethical duty to act in the best interest of the client, even if this means forgoing a sale.

- **NAIFA Code of Ethics - Obligation 3 (Honesty):** I freely accept the obligation "To present, accurately and honestly, all facts essential to my clients' financial decisions."

The FSP Code explains that a member must perform services in a manner that respects the interests of all those they serve, including clients, principals, partners, employees, and employers. A member must disclose conflicts of interests in providing such services.

The following rules set standards for adherence to the Honesty Obligation, and the accompanying applications illustrate how such rules may be followed in practice –

Rule 3.1 – A member shall be truthful and candid in their professional communications with existing and prospective clients, and with the general public.

Application for Rule 3.1 – Members must not use words or make statements in brochures or advertising materials or in any client communication that create false impressions or have the potential to mislead.

Rule 3.2 – A member shall not engage in behavior involving concealment or misrepresentation of material facts.

Applications for Rule 3.2 – (a) In the sale of financial products, the use of product illustrations that are more aggressive than the company's current assumptions – without offering alternate illustrations using more conservative assumptions – is a form of misrepresentation. It is best to show a range of assumptions for each product to illustrate the impact of changes on the rate of return. To avoid misrepresentation, members should use unbiased historical illustrations, show past performance, and educate consumers on the difference between past results and projections, and actual future results. (b) Improper replacement is a form of misrepresentation. When considering the replacement of one insurance or other financial product with another, a thorough comparison of both products, including surrender charges, incontestable clauses, expenses, fees, and tax consequences, should be completed. (c) Failure to note a preexisting medical condition on an insurance application is a form of concealment.

Rule 3.3 – A member shall disclose to the client all information material to the professional relationship, including, but not limited to, all actual or potential conflicts of interest. In a conflict of interest situation, the interest of the client must be paramount.

Rule 3.4 – A member shall refrain from using a NAIFA, FSP, or Life Happens name, mark, logo, credential, award, or other indicia of membership in a false or misleading manner.

Application of Rule 3.4 – A member must not use association trademarks or professional designations in company names, taglines, or marketing materials in a misleading manner.

- **NAIFA Code of Ethics - Obligation 4 (Service)**: I freely accept the obligation “To render timely and proper service to my clients and ultimately their beneficiaries.”

The FSP Code explains that a member must act with patience, timeliness, and consistency in the fulfillment of their professional duties. A financial professional works diligently. Knowledge and skill alone are not adequate. A professional must apply these attributes in a prompt and thorough manner in the service of others.

The following rules set standards for adherence to the Service Obligation –

Rule 4.1 – A member shall act with competence and consistency in promptly discharging their responsibilities to clients, employers, principals, purchasers, and other recipients of the member's services.

Rule 4.2 – A member shall make recommendations to clients, whether in writing or orally, only after sufficient professional evaluation and understanding of the client's needs and goals. A member shall support any such recommendations with appropriate research and documentation.

Rule 4.3 – A member shall properly supervise subordinates with regard to their role in the delivery of financial services and shall not condone conduct in violation of this Code's ethical standards.

- **NAIFA Code of Ethics - Obligation 5 (Professional Development)**: I freely accept the obligation “To continually enhance professionalism by developing my skills and increasing my knowledge through education.”

The FSP Code explains that financial professionals must continually improve their professional knowledge, skill, and competence. Professionalism starts with technical competence. The knowledge and skills held by a professional are of a high level, difficult to attain, and, therefore, not generally held by the wider public. Competence not only includes the initial acquisition of this specialized knowledge and skill, but also requires continued learning and practice.

The following rules set standards for adherence to the Professional Development Obligation, and the accompanying application illustrates how such rules may be followed in practice –

Rule 5.1 – Members must maintain and advance their knowledge in all areas of financial service in which they are engaged and participate in continuing education programs throughout their career.

Application of Rule 5.1 – Financial professionals must meet the applicable continuing education standards set by state or federal licensing authorities and any other entity with authority over applicable licenses and professional credentials.

Rule 5.2 – Members must refrain from giving advice in areas beyond their expertise.

Application of Rule 5.2 – Financial professionals must not give tax, legal, insurance, accounting, actuarial, investment, or other advice without the applicable and appropriate training and licenses.

- **NAIFA Code of Ethics - Obligation 6 (Compliance):** I freely accept the obligation “To obey the letter and spirit of all laws and regulations which govern my profession.”

The FSP Code explains that members must comply with, and assist in raising, professional requirements and standards in the financial services industry.

The following rules set standards for adherence to the Compliance Obligation, and the accompanying application illustrates how such rules may be followed in practice –

Rule 6.1 – A member has the duty to know and abide by the local, state, and federal laws and regulations pertaining to the member's professional activities.

Application for Rule 6.1 – The financial service profession is subject to state and federal laws and regulations in the areas of securities, insurance, banking, unfair trade practices, and others. Members must understand these laws and regulations and their applicability to their practices.

Rule 6.2 – A member shall embrace and adhere to the spirit and letter of laws and regulations governing their business and professional activities.

Rule 6.3 – A member shall show respect for other financial professionals and related occupations by engaging in fair and honorable competitive practices, consistent with antitrust law and association proselytizing policy; collegiality among members shall not impede enforcement of this Code.

Rule 6.4 – A member shall cooperate with regulatory authorities regarding investigations of alleged violation of laws or regulations by a financial professional, as appropriate, and consistent with the advice of counsel.

- **NAIFA Code of Ethics - Obligation 7 (Reputation):** I freely accept the obligation “To conduct all business dealings in a manner which would reflect favorably on NAIFA and my profession.”

The FSP Code explains that a member's conduct in all professional matters must reflect positively upon the financial services profession. A member must assist in maintaining the integrity of the Code of Ethics and the professionalism of all members. Every member has a responsibility to regulate their own behavior by abiding by the Code of Ethics and to facilitate the enforcement of the Code.

The following rules set standards for adherence to the Reputation Obligation, and the accompanying applications illustrate how such rules may be followed in practice –

Rule 7.1 – A member has the duty to know and abide by the rules of ethical and professional conduct prescribed in the Code of Ethics.

Application of Rule 7.1 – A member should review the Code of Ethics at least annually.

Rule 7.2 – A member shall immediately notify NAIFA if they violate the code of ethics of any profession or professional organization.

Application of Rule 7.2 – If a member is found to have violated the code of ethics of another organization, they should notify NAIFA and provide such detail as may be appropriate.

Rule 7.3 – A member shall immediately notify NAIFA of any revocation or suspension of their license by a state or federal licensing or regulatory authority.

Rule 7.4 – A member shall not sponsor as a candidate for NAIFA membership any person known by the member to engage in business or professional practices that violate the Code of Ethics.

Rule 7.5 – A member possessing non-privileged information concerning an alleged violation of the Code of Ethics shall report such information to NAIFA.

Application of Rule 7.5 – All members have a duty to report violations of the Code of Ethics. If a member believes another member may have violated the Code of Ethics, direct communication between the two members may be a prudent first step in addressing the issue, when practical and appropriate.

Rule 7.6 – A member shall not condone any act by another member prohibited by the Code of Ethics.

Application of Rule 7.6 – If requested, a member should assist with the administration or enforcement of the Code of Ethics. A member must disqualify themselves from such service if they cannot not serve in a fair and impartial manner.

Rule 7.7 – A member shall report promptly to NAIFA any information concerning the unauthorized, false, or misleading use of a NAIFA name, mark, logo, credential, award, or other indicia of membership.

Application of Rule 7.7. – The NAIFA name and logo, and other indicia of membership, may only be used by NAIFA members and as authorized by NAIFA.

- **NAIFA Code of Ethics - Obligation 8 (Cooperation)**: I freely accept the obligation “To cooperate with others whose services best promote the interests of my clients.”

The FSP Code explains that a member has an obligation to cooperate with other members, and with other financial professionals, to enhance and maintain the profession's public image and to work together to improve the quality of services rendered.

The following rules set standards for adherence to the Cooperation Obligation, and the accompanying application illustrates how such rules may be followed in practice –

Rule 8.1 – A member shall establish and maintain dignified and honorable relationships with those they serve, with fellow practitioners, and with members of other professions.

Application for Rule 8.1 – A member should be respectful in dealings with other financial professionals in competitive environments and avoid disparaging remarks to clients or others. This does not mean a member cannot provide impartial factual information about a competitor to others.

Rule 8.2 – A member shall respect the rights of others.

- **NAIFA Code of Ethics - Obligation 9 (Advocacy)**: I freely accept the obligation “To protect the financial interests of my clients, their financial products and my profession, through political advocacy.”

The Advocacy Obligation calls upon NAIFA members to fulfill their civic duty to participate in the democratic process essential to the American system of self-government. Membership in a professional association such as NAIFA enables members to participate in constituent lobbying and political activities, aimed at ensuring that the legislative and regulatory environment supports the promotion of financial security for all Americans and fair access to financial professionals who can serve the public.

Rule 9.1 – A member shall support the development, improvement, and enforcement of such laws, regulations, and codes of ethical conduct that benefit the public’s ability to achieve financial security and foster public access to and respect for the financial professionals.