

# Disciplinary Rules and Procedures

(effective October 8, 2012)

## Glossary

**Candidate** – Individual who has been admitted to an Investments & Wealth Institute program that may lead to an Institute Designation.

**Client** – Person or entity who receives professional services from an Institute Licensee.

**CIMA**® – Certified Investment Management Analyst®.

**CIMC**® – Certified Investment Management Consultant®.

**Code of Professional Responsibility (Code)** – A set of statements, including a Preamble and Guidance Document, adopted by the Institute to promote and maintain the highest standards of personal, professional, and ethical conduct in the investment management consultant profession. The Code may be amended from time to time by the Institute in its sole and unlimited discretion.

**CPWA**® – Certified Private Wealth Advisor®.

**Disciplinary Rules and Procedures (Rules)** – A set of rules adopted by the Institute to enforce Code and/or other standards adopted by the Institute in order to maintain the integrity and goodwill of the Institute Designations among members of the financial services industry and the public. The Rules may be amended from time to time by the Institute in its sole and unlimited discretion.

**Good Standing** – The status of an Institute Designation that indicates the Licensee has met and continues to meet all requirements set by the Institute to maintain a license for the Institute Designation.

**Hearing Panel** – A panel appointed by the Professional Review Board (PRB) to hear a disciplinary case as more fully described herein. A Hearing Panel shall be composed of three individuals, all of whom hold an Institute Designation, are Institute members in good standing, and have held an Institute Designation for at least two (2) years.

**IMCA**® – Investment Management Consultants Association®, the former name of the Investments & Wealth Institute.

**Investments & Wealth Institute Appeals Board** – Five (5) person board appointed by the Institute Board of Directors to review and consider appeals from a final order issued by the PRB.

**Investments & Wealth Institute Designation** – CIMA®, CIMC®, or CPWA® license.

**Licensee** – Person who is licensed by the Institute to use an Institute Designation.

**Legal Counsel** – A licensed attorney who is retained by the Institute for the purposes of assisting the Institute staff, the PRB, Hearing Panels, the Institute Appeals Board, and the Institute Board of Directors in implementing and enforcing the Code, Rules, and/or other standards adopted by the Institute.

**Professional Review Board (PRB)** – A Board established by the Institute to review, investigate, and rule on any Licensee's alleged infractions of the Code, Rules, and/or other standards adopted by the Institute.

**Professional Loss or Suspension** – Loss or suspension of a professional license, designation, or certification to offer services to the public as a registered securities representative, broker-dealer, insurance agent, real estate sales person or broker, attorney, accountant, investment advisor, or similar professional license, designation, or certification.

**Respondent** – An Institute Licensee or a Candidate for an Institute Designation who is the subject of a disciplinary action.

**Serious Crime** – (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.

## Disciplinary Rules and Procedures

### Article 1: Introduction

The Investments & Wealth Institute (Institute) has adopted a Code, these Rules, and/or other standards which set forth the standards of conduct that the Institute requires of its Licensees and Candidates. The Institute may amend the Code these Rules, and/or other standards adopted by the Institute from time to time in its sole and unlimited discretion. The Code, these Rules, and/or other standards adopted by the Institute define professional conduct by Licensees and Candidates. The Institute enforces the Code, these Rules, and/or other standards adopted by the Institute in order to protect and maintain the integrity and goodwill of the Institute Designations among members of the financial services industry and the public. Licensees and Candidates are required to adhere to the Code, these Rules, and/or other standards adopted by the Institute. Failure to do so may result in disciplinary action including termination or suspension of the right to use an Institute Designation or termination of the right to pursue an Institute Designation.

### Article 2: Professional Review Board

#### 2.1 Jurisdiction

The Institute has established a PRB to review, investigate, and rule on violations of the Code, Rules, and/or other standards adopted by the Institute allegedly committed by Licensees and Candidates and to conduct other activities as described in these Rules. The PRB shall be composed of at least six (6) Licensees in good standing who have held an Institute Designation for at least two years. One of the PRB members shall serve as chair. The members of PRB shall be nominated by the Institute President and ratified by the Institute Board of Directors (Institute Board). Each member of the PRB shall serve a three-year term on a staggered basis. Appointments to the PRB shall be made in a manner to ensure that the terms are staggered. For example, two of the appointees may have an initial term of one year; two appointees may have an initial term of two years; and two appointees may have an initial term of three years. As set forth herein, the PRB shall have exclusive jurisdiction over matters arising under the Code, Standards, Rules, and/or other standards adopted by the Institute.

#### 2.2 Powers and Duties of the Professional Review Board and the Institute Staff

The PRB is empowered to:

- a. Investigate alleged infractions of the Code, Rules, and/or other standards adopted by the Institute and issue orders regarding private or public censure, the suspension or termination of the right to use an Institute Designation by Licensees, or termination of Candidates who are found to have violated the Code, Rules, other standards adopted by the Institute, or other orders as may be appropriate;
- b. Report to the Institute Board with respect to the operations of the PRB;
- c. Consider and propose amendments to the Code, Rules, and/or other standards adopted by the Institute for action by the Institute Board or Certification Commission; and
- d. Develop and adopt procedures for the fair and expeditious hearing of matters that come before it.

The Institute staff shall be responsible for:

- a. Receiving and maintaining the confidentiality of complaints and other information received by the Institute from Clients or other parties with respect to Licensees' alleged violations of the Code, Rules, and/or other standards adopted by the Institute;
- b. Providing periodic summaries to the PRB of all such complaints;
- c. Conducting investigations of complaints at the direction of the PRB;
- d. Preparing and submitting disciplinary petitions and recommendations to the PRB after review by Legal Counsel;
- e. Preparing and submitting disciplinary recommendations by a Hearing Panel to the PRB;

- f. Preparing draft orders for review and approval by a Hearing Panel, the PRB, the Institute Appeals Board, and/or any member of any of the aforementioned bodies; and
- g. Obtaining all necessary confidentiality and/or conflict of interest agreements by members of the PRB, the Institute Appeals Board, and/or Hearing Panel members.

**Article 3: Grounds for Discipline**

The following acts or omissions committed by a Licensee or Candidate individually or in concert with others shall constitute grounds for the filing of a disciplinary petition, initiation of disciplinary proceedings, and imposition of discipline:

- a. Violation of the Code, Rules, or other standards adopted by the Institute;
- b. Violation of federal or state statutes or regulations or rules of self-regulating bodies in respect to the financial services industry;
- c. Violation of the criminal statutes of any state or the United States for commission of a Serious Crime. Conviction of a crime shall not be a prerequisite for the filing of a disciplinary petition;
- d. Any act or omission that results in a Professional Loss or Suspension and/or the suspension or termination of a professional license, designation, or certification by a local, state, federal, or private licensing, designation or certification authority or organization;
- e. Violation of the rules of FINRA or other financial services self-regulatory organization;
- f. Failure to respond to a disciplinary petition or a request of the Hearing Panel, PRB, the Institute Appeals Board, and/or the Institute staff or failure to comply with an order of a Hearing Panel, the PRB, and/or the Institute Appeals Board;

- g. The submission of false or misleading statements to the Institute, a Hearing Panel, the PRB, and/or the Institute Appeals Board; and
- h. Violation of the License Agreement between the Institute and the Licensee.

The foregoing constitutes a nonexclusive list of grounds for discipline. Other acts or omissions that constitute unprofessional conduct or that bring an Institute Designation into disrepute or impair the goodwill of the Institute Designation also may constitute grounds for discipline.

**Article 4: Disciplinary Proceedings**

**4.1 Initiation of Disciplinary Proceedings**

**4.1.1**

The Institute may initiate disciplinary investigations through a number of different channels. If the Institute is notified in writing of a complaint against a Licensee or Candidate, the Institute staff shall have sixty (60) days from that date to research the complaint. Within the sixty (60) day period, the Institute staff may prepare and send a draft petition or other recommendation to Legal Counsel for review and approval. Legal Counsel shall have sixty (60) days to review the petition or other recommendation and determine if IM the Institute CA staff should forward the petition to the PRB for initial review. Any of these time periods may be extended by the PRB upon good cause shown.

**4.1.2**

The PRB shall undertake an initial review of each disciplinary petition or other recommendation forwarded by the Institute staff. In cases in which a petition or other recommendation does not set forth sufficient facts to show good cause for discipline, the PRB may either dismiss the matter in its entirety or return it to the Institute staff for further research and leave to amend. The PRB has sixty (60) days from receipt of the petition or other recommendation to make its determination. This time period may be extended by the PRB upon good cause shown.

**4.1.3**

If the PRB finds a disciplinary petition or other recommendation establishes good cause for discipline, it shall either: (a) in the event the PRB determines that the petition and supporting exhibits establish, without any reasonable grounds for dispute, that grounds for

discipline exist and that the appropriate remedy is a private censure, then the PRB may authorize the issuance of a private letter informing the Respondent of these conclusions and that a private censure would be the remedy. The Respondent shall be offered the opportunity to have a hearing in lieu of the summary private censure; or (b) appoint a three-member Hearing Panel to hear and review evidence with respect to the petition or other recommendation. No member of the PRB or the Institute Board of Directors or Appeals Board may serve on a Hearing Panel. The PRB chair shall appoint a Hearing Panel that shall be composed of Institute Designation holders in good standing. The Hearing Panel chair, who is selected by the members of the Hearing Panel, shall rule on all motions and objections and may grant extensions of time concerning the deadlines provided by these Rules. No member of the Hearing Panel shall participate in any proceeding in which the member or any member of their immediate family or firm or employer has any financial or other interest, or where such participation would involve a conflict of interest.

#### 4.1.4

The Hearing Panel shall commence proceedings concerning a disciplinary petition or other recommendation by serving the disciplinary petition or other disciplinary document on the Respondent by certified mail to the Respondent's last known address and issuing a scheduling order setting the following dates:

- a. An answer to the disciplinary petition shall be filed with the Institute staff no later than thirty (30) days after the mailing date of the disciplinary petition to Respondent. The answer shall respond to the allegations set forth in the disciplinary petition and either request or waive the right to participate in a hearing before the Hearing Panel.
- b. During the period beginning thirty (30) days after the mailing date of the disciplinary petition to Respondent and ending ninety (90) days thereafter, the Hearing Panel may request that the Respondent produce documents concerning the alleged infraction and any facts, claims, or defenses asserted in the answer. The Respondent may request the Institute to produce its records relating to the Respondent as well as any documents which support the allegations contained in the disciplinary petition (Document

Production Period). Any party who fails to produce documents requested by the other party during the Document Production Period shall not be permitted to use said documents for any purpose in proceedings governed by these Rules.

- c. The hearing date shall be set no later than ninety (90) days after the last day of the Document Production Period.

#### 4.2 Failure to Respond to the Petition

Failure to respond to the disciplinary petition within the period provided in paragraph 4.1.4 shall be deemed a default by the Respondent. Upon entry of an order of default by the Hearing Panel, the Respondent's license to use his or her Institute Designation shall be immediately terminated and, in the case of a Candidate, the Respondent shall be terminated from the appropriate Institute program. A notice of termination shall be sent to Respondent via certified mail. A Licensee must immediately cease all use of the Institute Designation upon receipt of the notice of termination or other notification of termination from the Institute. Upon good cause shown at any time, a Respondent may move to set aside the default.

#### 4.3 Hearing

A Respondent who has filed an answer to a petition shall be entitled to a hearing before the Hearing Panel and may personally, or through an attorney (at Respondent's own expense), respond to the allegations contained in the disciplinary petition. The hearing shall take place at the location specified by the Hearing Panel, via video conference at Respondent's sole expense, or via teleconference. For the purposes of preservation of testimony, the proceedings may be recorded by the Institute staff, in which case the recording of the proceedings will be maintained at the Institute offices.

At the hearing, the Respondent may present documentary evidence and testimony of witnesses in support of Respondent's answer; provided, however, that to be admissible, all such documentary evidence and the substance of all such witness testimony must have been disclosed to the Hearing Panel during the Document Production Period. The Hearing Panel shall set its own rules regarding the conduct of the hearing and the admission of evidence. Hearings may be conducted

before a court reporter at the Respondent's option and cost, but if the Respondent intends to use a court reporter, Respondent shall notify the Institute of said intent and the Institute shall procure the court reporter. Respondent shall be responsible to pay for all costs associated with said court reporter, including, without limitation, production of a copy of the transcript for the Institute. All testimony presented shall be under oath.

Within sixty (60) days of the last day of the hearing, the Hearing Panel shall issue a report of its findings of fact and conclusions with respect to the allegations contained in the disciplinary petition or other document, together with a proposed order setting forth the action recommended to the PRB.

The PRB shall review the Hearing Panel's report and proposed order and issue a final order within thirty (30) days after receiving the report and proposed order. The PRB's final order shall be sent to Respondent by certified mail within ten (10) business days of issuance.

In the event that the PRB finds that the Hearing Panel has abused its discretion or has made clearly erroneous findings of fact, the PRB may dismiss the disciplinary petition or remand it with instructions to the Hearing Panel to conduct further fact-finding or take other action consistent with the direction of the PRB.

#### **4.4 Remedial Action**

The PRB has discretion to take any and/or all of the following action(s) in the event that a preponderance of the evidence submitted at the hearing establishes that grounds for disciplinary action exist:

- a. Private censure. A private censure is a letter from the PRB to the Respondent advising the Respondent the PRB has determined private censure is the appropriate discipline. Other than through publication of anonymous decisions, the facts and circumstances supporting the private censure shall also not be made public. Although not publicly disseminated, the private censure letter shall be a permanent portion of Respondent's record, and a copy of the private censure letter shall be maintained in the Respondent's file at the Institute;

- b. Public censure. The fact of and the facts and circumstances supporting the public censure shall be made public in any venues the Institute deems appropriate, including, but not limited to, the Institute's web site, media alerts, and/or notification to FINRA or other financial services organizations and may be made available to others upon request;
- c. Suspension of the right to use the Institute Designation for a specific period of time. The facts and circumstances supporting the suspension shall be made public in any venues the Institute deems appropriate, including, but not limited, to the Institute's web site, media alerts, and/or notification to FINRA or other financial services organizations and may be made available to others upon request;
- d. Termination of the right to use the Institute Designation. The facts and circumstances supporting the termination shall be made public in any venues the Institute deems appropriate, including, but not limited to, the Institute's web site, media alerts, and/or notification to FINRA or other financial services organizations and may be made available to others upon request; and
- e. Other action determined to be appropriate to remedy the conduct.

All remedial action, including private censures, shall be a permanent portion of the Respondent's record and shall be maintained in the Respondent's file at the Institute.

#### **Article 5: Appeals**

A final order of the PRB is subject to review by the Institute Appeals Board. Any discipline imposed by the PRB is stayed during the pendency of a timely filed appeal.

An appeal from a final order of the PRB must be filed within sixty (60) days of the date of the order. In the event a timely appeal is not filed, the PRB order shall become final and non-appealable, and any discipline ordered by the PRB shall apply from the date the order becomes final and non-appealable.

The Institute Appeals Board will review an appeal within sixty (60) days after receipt of the appeal. The Institute Appeals Board shall only review the record of the hearing and shall not conduct any de novo review of the matter. The decision of the Institute Appeals Board is final and shall be transmitted to Respondent via certified mail within thirty (30) days after the date on which the Institute Appeals Board makes its decision. Any discipline ordered by the PRB and/or the Institute Appeals Board after an appeal shall apply from the date the PRB's or the Institute Appeals Board's decision becomes final and non-appealable.

A Respondent's failure to comply with any final and non-appealable orders of the PRB and/or the Institute Appeals Board may be grounds for additional discipline, which may include the suspension or termination of the Respondent's Institute Designation as provided in Rule 4.4.

#### **Article 6: Reportable Events**

##### **6.1**

Upon receipt of written notification by the Licensee or Candidate of being a defendant or respondent in any self-regulatory organization (e.g., FINRA), government agency, criminal, and/or civil complaint, investigation, mediation, or arbitration, every Licensee or Candidate must notify the Institute in writing of such action within sixty (60) days.

##### **6.2**

Every Licensee or Candidate, upon being convicted of a Serious Crime or being the subject of a Professional Loss or Suspension must notify the Institute in writing of such conviction, loss, or suspension within sixty (60) days after receipt of notification by the Licensee or Candidate of such conviction, loss, or suspension. Upon becoming aware of a Licensee's or Candidate's conviction for a Serious Crime or Professional Loss or Suspension, the PRB may, in its discretion, issue an order to show cause why the Licensee's license to use an Institute Designation should not be immediately suspended or the Candidate should not immediately be terminated from the applicable Institute program. Failure to respond to the order to show cause within ten (10) days of receipt may result in immediate suspension or termination of the Licensee or Candidate. Responses to orders to show cause shall be referred to the PRB for further action under these Rules.

#### **Article 7: Reinstatement after Discipline**

##### **7.1 Reinstatement after Termination**

Termination shall be permanent and there shall be no grounds upon which a terminated Licensee or Candidate may seek reinstatement.

##### **7.2 Reinstatement after Suspension**

Unless otherwise provided by a PRB order or order of the Institute Appeals Board issued after an appeal, within thirty (30) days of the expiration of the suspension term, a Respondent may file a petition for reinstatement. The petition for reinstatement must be accompanied by an affidavit of compliance signed by the Respondent reporting compliance with the order and setting forth the steps taken by the Respondent during the suspension period to rehabilitate himself or herself, and make amends to clients, colleagues, and others adversely affected by his/her actions. The Respondent also must verify in the petition for reinstatement that he or she has complied with the Institute's continuing education requirements throughout the suspension period.

##### **7.3 Reinstatement by PRB**

The PRB, upon review of the petition for reinstatement and the Respondent's affidavit, may, in its discretion, grant reinstatement or require the Respondent to attend a reinstatement hearing. All costs of the reinstatement hearing shall be borne by the Respondent. Reinstatement is within the sole discretion of the PRB and shall not be granted in the absence of clear and convincing evidence of compliance with the order, the Code, Rules, other standards adopted by the Institute, and the Institute's continuing education requirements. Upon or in conjunction with the PRB's grant or acceptance of a petition for reinstatement after disciplinary suspension, the Respondent, in order to be eligible to reactivate his or her license to use the Institute Designation, shall comply with the Institute's rules regarding reactivation after disciplinary suspension.

##### **7.4 Appeal from Reinstatement Decision**

Any order by the PRB concerning reinstatement may be appealed to the Institute Appeals Board using the same procedures as provided in Article 5 of these Rules.