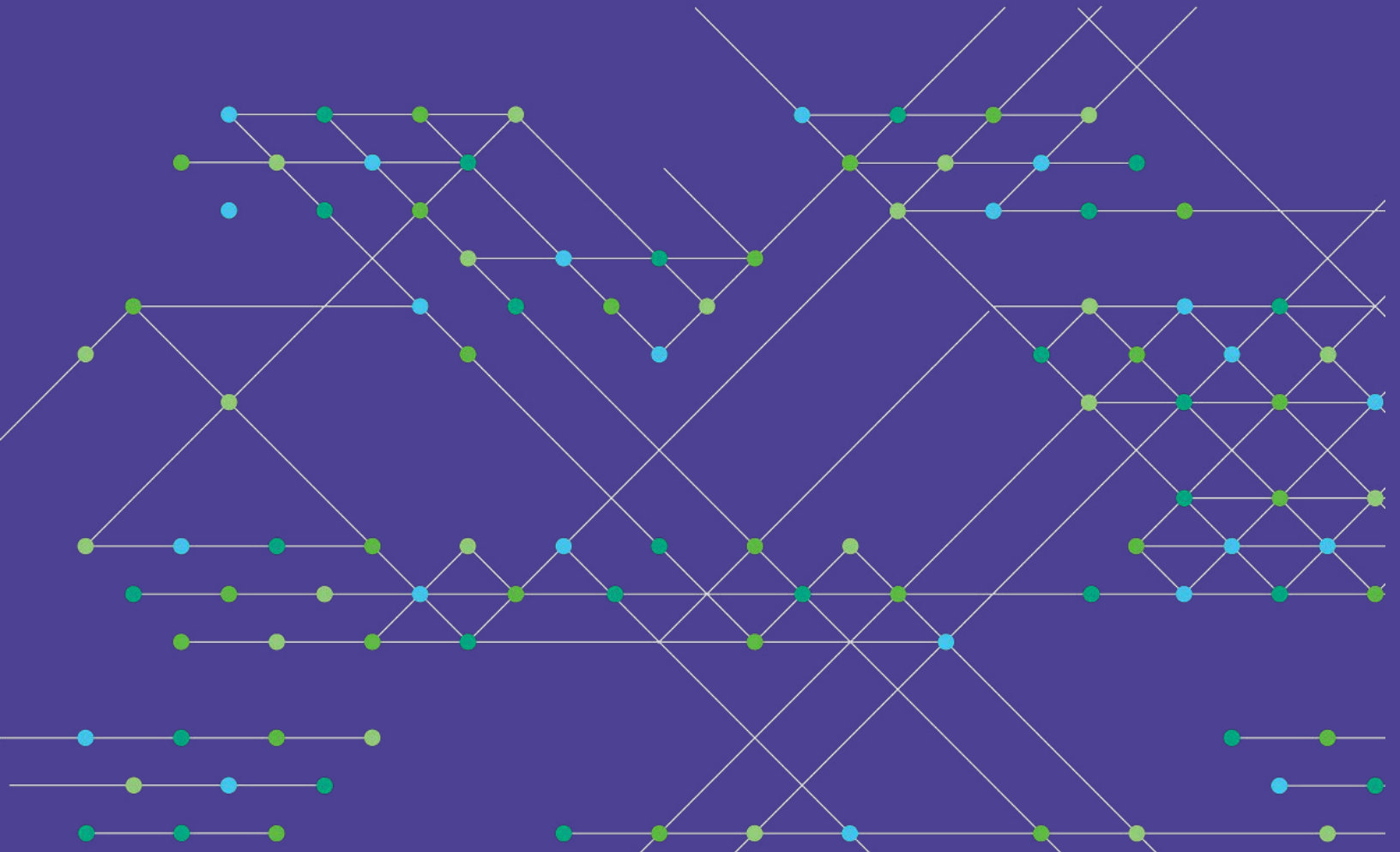


# RULES OF PROCEDURE: FOR CONDUCT RELATED TO THE PROFESSION

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# RULES OF PROCEDURE: FOR CONDUCT RELATED TO THE PROFESSION

## TERMS OF REFERENCE

**Answer:** The Covered Person's written response to a Statement of Charges, in which they must specifically admit or deny each of the alleged findings of fact and conclusion as to violations and accept or reject the recommended sanction.

**Appeal Panel:** A panel comprised of current and/or former DRC members and a current or former CFA Institute Board member who evaluate, at the request of a Covered Person and pursuant to Rule 5, the findings of fact, conclusion as to violation(s), and sanction(s) imposed by a Hearing Panel.

**Appeal Panel Chair:** The individual selected by the DRC Chair to conduct and lead the Appeal Panel proceeding.

**Bylaws:** The CFA Institute Articles of Incorporation and Bylaws.

**CFA Institute Board:** The CFA Institute Board of Governors.

**CFA Institute Exam Program:** The CFA and/or CIPM exam programs.

**Code and Standards:** The CFA Institute Code of Ethics and Standards of Professional Conduct.

**Conflict of Interest:** Any business, financial, and/or personal interest, relationship, or other circumstance that could be reasonably expected to impair the ability to be objective or that creates the appearance of impropriety.

**Covered Person:** Any CFA Institute Charterholder, Regular, or Affiliate Member; Candidate or Postponed Candidate (as those terms are defined in the CFA Institute Bylaws); individual that has passed the Level III CFA exam but not been awarded the CFA charter (and appears to have been misusing the CFA designation); individual that has allowed their membership to lapse or has had their membership suspended through the disciplinary process (and appears to have been misusing the CFA designation); individual that seeks to reactivate a membership that has been lapsed; or individual who petitions for Reinstatement.

**Disciplinary Proceeding:** A Hearing Panel, Appeal Panel, Review Panel, Summary Suspension Panel, or Reinstatement Panel proceeding.

**Disciplinary Review Committee (DRC):** The volunteer committee of CFA Institute members established by the CFA Institute Board to enforce the Governing Documents and the CFA Institute Exam Rules and Policies as they pertain to Covered Persons.

**DRC Chair:** A member of the Disciplinary Review Committee approved by the CFA Institute Board to lead the DRC.

**Enforcement:** The CFA Institute Professional Conduct Program's Enforcement group, including their representatives and designees, whose duties include, but are not limited to, investigating professional conduct matters, recommending disciplinary sanctions, and participating in Disciplinary Proceedings.

**Governing Documents:** Documents that govern the conduct of Covered Persons, including the Bylaws, Code and Standards, and Rules of Procedure.

**Hearing Panel:** A panel composed of DRC members convened when the Statement of Charges has been rejected by either the Covered Person or a Review Panel.

**Hearing Panel Administrator:** The administrative and scheduling intermediary among Professional Conduct, the Covered Person, and any Panel and/or the DRC Chair.

**Hearing Panel Chair:** The Hearing Panelist selected by the DRC Chair to conduct and lead a Hearing Panel proceeding.

**Professional Conduct:** Any activity or conduct governed by the Code and Standards and other Governing Documents, except for conduct relating to participation in a CFA Institute Exam Program, as determined by Professional Conduct. (See Rules of Procedure: Exam-Related Conduct).

**Reinstatement Panel:** A panel of DRC members who conduct a hearing to evaluate and make a decision regarding a petition for reinstatement.

**Review Panel:** A panel of DRC members who evaluate the conclusion as to violation(s) and recommended sanction(s) when the Covered Person has accepted, or has failed to reject, a Statement of Charges, or who evaluate an agreed-upon Settlement Agreement as set forth in Rule 3.

**Settlement Agreement:** A document in which Professional Conduct and the Covered Person agree to resolve a disciplinary matter. The agreement must be in writing and include findings of facts, a conclusion as to the violation(s), and an agreed upon sanction.

**Statement of Allegations:** The document provided by Professional Conduct to the Covered Person that notifies the individual of the preliminary findings of the investigation and conclusion as to the apparent violation(s) of the Governing Documents. The Statement of Allegations provides the Covered Person an opportunity to submit additional documents, information, and explanations before Professional Conduct determines whether to issue a Statement of Charges.

**Statement of Charges:** The document that notifies the Covered Person of Professional Conduct's findings of fact, conclusion as to violation(s), and recommended sanction(s). The Statement of Charges must be accepted or rejected by the Covered Person in the time provided.

**Summary Suspension Hearing Panel:** A panel of DRC members who conduct a hearing to determine whether a summary suspension is reasonable when a Covered Person has submitted a request for review of a notice of summary suspension issued by Professional Conduct.

**Contents**

TERMS OF REFERENCE ..... 2

RULE 1: INTRODUCTION ..... 6

    Rule 1.1 Roles and Authority of the Disciplinary Review Committee ..... 6

    Rule 1.2 Roles and Authority of Professional Conduct ..... 6

    Rule 1.3 Rights and Responsibilities of a Covered Person..... 6

    Rule 1.4 Delivery and Receipt of Documents..... 7

    Rule 1.5 Grounds for Sanctions ..... 7

    Rule 1.6 Sanctions ..... 7

    Rule 1.7 Publication, Disclosure, and Confidentiality ..... 8

RULE 2: INVESTIGATIONS ..... 8

    Rule 2.1 Beginning an Investigation ..... 8

    Rule 2.2 Notice of Investigation..... 9

    Rule 2.3 Investigation ..... 9

    Rule 2.4 Continuing an Investigation or Proceeding ..... 9

    Rule 2.5 Closing an Investigation ..... 9

    Rule 2.6 Statement of Allegations ..... 9

    Rule 2.7 Statement of Charges ..... 10

    Rule 2.8 Covered Person’s Answer to the Statement of Charges ..... 10

RULE 3: REVIEW PROCESS..... 11

    Rule 3.1 Review Panel Procedures..... 11

    Rule 3.2 Review Panel Standard of Review and Decision..... 11

RULE 4: HEARING PROCESS ..... 11

    Rule 4.1 Scheduling a Hearing Panel ..... 11

    Rule 4.2 Selection of Hearing Panelists ..... 12

    Rule 4.3 Notice of Hearing and Challenge Procedures..... 12

    Rule 4.4 Pre-Hearing Submissions ..... 13

    Rule 4.5 Hearing Procedures ..... 13

    Rule 4.6 Standard of Proof ..... 13

    Rule 4.7 Hearing Panel Decision..... 13

RULE 5: APPEAL PROCESS ..... 14

    Rule 5.1 Covered Person’s Request for Appeal ..... 14

    Rule 5.2 Professional Conduct’s Response to Appeal..... 14

    Rule 5.3 Standard of Review ..... 14

    Rule 5.4 Selection of Appeal Panelists ..... 14

    Rule 5.5 Notice of Appeal Panel and Challenge Procedures..... 15

|                                     |   |    |
|-------------------------------------|---|----|
| Rule 5.6                            | Appeal Panel Procedures .....   | 15 |
| Rule 5.7                            | Appeal Panel Decision .....   | 15 |
| RULE 6: SUMMARY SUSPENSIONS .....   |   | 15 |
| Rule 6.1                            | Grounds for Summary Suspension .....  | 15 |
| Rule 6.2                            | Notice of Summary Suspension .....  | 16 |
| Rule 6.3                            | Request for Review of Summary Suspension .....  | 16 |
| Rule 6.4                            | Failure to Request Review of Summary Suspension .....   | 16 |
| Rule 6.5                            | Summary Suspension Hearing Panel .....  | 16 |
| Rule 6.6                            | Reversal of a Revocation and/or Prohibition Imposed Pursuant to Rule 6.1(a) or (b) .....      | 16 |
| Rule 6.7                            | Reversal of a Revocation and/or Prohibition Imposed Pursuant to Rule 6.1(c) .....             | 16 |
| RULE 7: REINSTATEMENT PROCESS ..... |   | 17 |
| Rule 7.1                            | Reinstatement Following Timed Suspension .....  | 17 |
| Rule 7.2                            | Petition, Investigation, and Review for Reinstatement Following Prohibition or Revocation.... | 17 |

## **RULE 1: INTRODUCTION**

The Bylaws of CFA Institute and these Rules of Procedure form the basic structure for enforcing compliance with the Governing Documents. CFA Institute believes that Covered Persons are presumed to be in compliance with the Governing Documents unless and until proved otherwise, and is committed to providing a fair, efficient, and effective disciplinary process. Throughout the disciplinary process, CFA Institute staff, Covered Persons and their representatives, and members of the Disciplinary Review Committee and Board of Governors must follow these Rules of Procedure.

### **Rule 1.1 Roles and Authority of the Disciplinary Review Committee**

The DRC is a volunteer committee of CFA Institute members established by the CFA Institute Board through the Bylaws. The DRC enforces the Governing Documents through participation as panelists in Disciplinary Proceedings. Panelists will not participate in any proceeding in which they have a Conflict of Interest. If a conflict exists, the panelist will withdraw from any proceeding immediately. In the unlikely event that all members of the DRC are conflicted and unable to serve as panelists in a Disciplinary Proceeding, substitute panelists will be drawn from current or former members of the CFA Institute Board or former members of the DRC.

Subject to these rules, the DRC will conduct disciplinary proceedings in such a manner as it considers appropriate, provided that participants are treated fairly and that at an appropriate stage of the proceedings each party is given a reasonable opportunity to present its case. The DRC, in exercising its discretion, shall conduct the proceedings so as to avoid unnecessary delay and expense and to provide a fair and efficient process.

### **Rule 1.2 Roles and Authority of Professional Conduct**

Professional Conduct is authorized to investigate any matter involving, or appearing to involve, a violation of the Governing Documents by a Covered Person and is authorized to contact any person or entity that it believes may be able to provide relevant information, documents, testimony, or assistance in an investigation or Disciplinary Proceeding.

Professional Conduct investigates to determine whether it is more likely than not that the Covered Person has violated the Governing Documents and, if so, issues a Statement of Allegations and/or Statement of Charges. In addition, Professional Conduct presents its findings of fact, conclusion as to violations, and recommended sanction in Disciplinary Proceedings.

Professional Conduct may appoint individuals to act on its behalf and to assist in performing the functions related to investigations and any resulting Disciplinary Proceedings.

Staff members of Professional Conduct, and those individuals acting on its behalf, will withdraw from any investigation or Disciplinary Proceeding in which they have a Conflict of Interest. If the entire Professional Conduct staff has a Conflict of Interest, the Chair of the Risk Committee of the CFA Institute Board will appoint individuals to act on behalf of Professional Conduct and to assist in or perform the functions related to investigations and any resulting Disciplinary Proceedings.

### **Rule 1.3 Rights and Responsibilities of a Covered Person**

A Covered Person who is the subject of a professional conduct investigation or Disciplinary Proceeding, or who may have relevant information regarding such an investigation or proceeding, has the responsibility to

- a) adhere to the Rules of Procedure;
- b) produce accurate and complete copies of all requested documents in their possession or control;
- c) provide information orally and in writing, as requested by Professional Conduct;
- d) prepare, execute, and deliver documents requesting and authorizing third parties (e.g., former clients, previous employers) to provide requested documents, information, and testimony to Professional Conduct in connection with a pending investigation or proceeding;

- e) respond in a timely manner and cooperate fully in the investigation or Disciplinary Proceeding; and
- f) keep Professional Conduct apprised of current mailing and email addresses in a timely manner;

and the right to

- a) retain and be represented by legal counsel;
- b) retain and have present, if applicable, an interpreter to assist them;
- c) present documentary evidence and oral and written testimony;
- d) call and present oral testimony by witnesses; and
- e) question any testifying witnesses presented by Professional Conduct.

The Covered Person assumes their own costs for producing documents and information, legal representation, translations, language interpreter, travel, witness expenses, and other expenses associated with an investigation and/or participation in a Disciplinary Proceeding.

#### **Rule 1.4 Delivery and Receipt of Documents**

Professional Conduct and the Hearing Panel Administrator may provide notices and documents relating to an investigation or Disciplinary Proceeding to the Covered Person's mailing address and/or email address as shown in CFA Institute records. Correspondence and/or documents are considered received by the Covered Person when sent to

- a) the mailing and/or email address for the Covered Person shown in CFA Institute records; or
- b) the business mailing and/or email address of the Covered Person's attorney or other representative who has been previously identified to Professional Conduct, in writing, by the Covered Person.

All references to the timing of delivery and receipt of documents within these Rules are calculated based on calendar days.

#### **Rule 1.5 Grounds for Sanctions**

Disciplinary sanctions may be imposed on a Covered Person for

- a) any violation of the Governing Documents;
- b) a conviction or guilty plea, as further described in Rule 6.1(a);
- c) a permanent or indefinite bar or suspension, or a suspension of two or more years, as described in Rule 6.1(b);
- d) failure to respond in a timely manner and/or cooperate fully in a Professional Conduct investigation or Disciplinary Proceeding or misusing the CFA designation while the Covered Person's membership is lapsed, as described in Rule 6.1(c).

The type of sanction imposed will consider the Covered Person's present status with CFA Institute so as to be meaningful and effective. So, for example, if a person commits a violation while they are a Candidate, but while an investigation or Disciplinary Proceeding is pending they become a CFA charterholder, the sanction imposed will be that applicable to their present status as a charterholder member (e.g., a revocation or suspension of membership and of the right to use the CFA designation).

#### **Rule 1.6 Sanctions**

Possible disciplinary sanctions include the following:

- a) **Private Reprimand.** An admonishment in writing that will not be published or disclosed to other persons or entities.
- b) **Censure.** An admonishment in writing for which publication and disclosure will include the Covered Person's name and identifying information and will be disclosed to other persons or entities upon request.
- c) **Suspension of Membership.** Termination of a Covered Person's memberships, or opportunity for memberships, in CFA Institute and any member societies for a specified period.



- d) **Suspension of the Right to Use the CFA Designation.** Termination of a Covered Person's right to use the CFA designation for a specified period.
- e) **Revocation of Membership.** Permanent or indefinite termination of a Covered Person's memberships, or opportunity for memberships, in CFA Institute and any member societies.
- f) **Revocation of the Right to Use the CFA Designation.** Permanent or indefinite termination of a Covered Person's right to use the CFA designation.
- g) **Summary Suspension.** Automatic termination of a Covered Person's memberships, or opportunity for memberships, in CFA Institute and any member societies, as well as the right to use the CFA designation or participate in a CFA Institute Exam Program.
- h) **Suspension from Participation in CFA Institute Exam Program.** Termination of a Covered Person's participation in the CFA and/or CIPM exam programs for a specified period.
- i) **Prohibition from Participation in CFA Institute Exam Program.** Permanent or indefinite termination of a Covered Person's participation in the CFA and/or CIPM exam programs.

As part of any public sanction identified above, Covered Persons may also be required by a Hearing Panel to meet other conditions for membership that may be proposed by Professional Conduct, such as: the successful completion of a specific ethics course and/or examination; and providing proof of payment of any related monetary awards, claims, fines, costs, disgorgement, or restitution ordered by a regulator, arbitration panel, government agency, or court of law. If the Covered Person fails to satisfy any such condition(s), they will not be allowed to reactivate or continue membership in CFA Institute or any member societies and/or participate in the CFA Institute Exam Program.

The effective date of a sanction is the date of the Review Panel or Hearing Panel's written decision imposing the sanction, or, in the event of an appeal, the date of the Appeal Panel's written decision or the date that the appeal is otherwise concluded.

### **Rule 1.7 Publication, Disclosure, and Confidentiality**

CFA Institute understands that all investigations and Disciplinary Proceedings are sensitive in nature and, therefore, will exercise reasonable care to ensure that the pendency, subject matter, status, and records of investigations and Disciplinary Proceedings conducted according to these Rules remain confidential.

Exceptions to this general policy may be made by Professional Conduct

- a) as required by law;
- b) as necessary to conduct an investigation or Disciplinary Proceeding;
- c) to disclose to the public the Covered Person's name, location, conduct, resignation, violations, and sanctions in CFA Institute publications, websites, and news releases; to persons or entities upon request; and/or to member societies;
- d) if the Covered Person has agreed to a waiver of confidentiality;
- e) to notify a regulatory organization, governmental entity, or court with jurisdiction over the Covered Person's conduct. In such a case, the regulator, agency, or court may make whatever use of that information it deems appropriate.

## **RULE 2: INVESTIGATIONS**

### **Rule 2.1 Beginning an Investigation**

Possible violations of the Governing Documents come to the attention of Professional Conduct through many sources, including self-disclosures, third-party tips and complaints, and publicly available information. Professional Conduct may open an investigation of any matter involving, or appearing to involve, a violation of the Governing Documents by a Covered Person, regardless of the source of the information.

## **Rule 2.2 Notice of Investigation**

A Covered Person who becomes the subject of an investigation by Professional Conduct will be notified in writing. The notice of investigation will include information as to where the Rules of Procedure can be found.

## **Rule 2.3 Investigation**

As part of an investigation into a Covered Person's conduct, Professional Conduct is authorized to contact any person or entity that it believes may be able to provide relevant information, documents, testimony, or assistance in an investigation. Professional Conduct may request and obtain information, documents, testimony, and assistance from the Covered Person, regulatory authorities, clients, employers, public records, and any other sources. In making a request to any person or entity, it may be necessary for Professional Conduct to identify the Covered Person and/or the conduct or allegations under investigation.

## **Rule 2.4 Continuing an Investigation or Proceeding**

Professional Conduct may commence and/or continue an investigation or Disciplinary Proceeding for conduct that occurred while an individual was a Covered Person, even if the individual's membership has since lapsed. Similarly, if an individual whose membership has lapsed later seeks to reactivate their membership, Professional Conduct may commence and/or continue an investigation and bring a Disciplinary Proceeding for any conduct that occurred while the person's membership was lapsed, regardless of whether they were also misusing the CFA designation.

If a Covered Person permanently resigns their CFA membership and/or permanently withdraws from further participation in the CFA Institute Exam Program during an investigation or Disciplinary Proceeding under these Rules of Procedure, the resignation will be considered permanent. The individual will not be allowed to reinstate, reactivate, or resume their membership or candidacy in the future. In order for a resignation to be effective, the Covered Person must agree in writing that they will not use the CFA designation or claim to be a Chartered Financial Analyst, or otherwise represent to others that they are a charterholder or member of CFA Institute in good standing. A notice of the Covered Person's permanent resignation and/or withdrawal may be published as provided in Rule 1.7. The notice may include the Covered Person's name, location, a statement that the resignation or withdrawal occurred during a professional conduct investigation or Disciplinary Proceeding, and a brief description of the conduct that was the subject of the investigation or proceeding.

## **Rule 2.5 Closing an Investigation**

If, at the end of an investigation, Professional Conduct determines there is no evidence or insufficient evidence of a violation, the Covered Person will be notified in writing that the investigation has been closed. Professional Conduct may re-open a closed investigation if it receives new or different information or allegations concerning the Covered Person's conduct.

## **Rule 2.6 Statement of Allegations**

If Professional Conduct believes there is sufficient evidence of a violation of the Governing Documents, Professional Conduct may, at its discretion, provide the Covered Person with a Statement of Allegations.

The purpose of the Statement of Allegations is to inform the Covered Person of the preliminary findings of the investigation and to allow the Covered Person a final opportunity to respond and present their position before Professional Conduct determines whether to proceed with a Statement of Charges.

The Statement of Allegations provides the Covered Person with Professional Conduct's preliminary findings of fact and conclusion as to the apparent violation(s) of the Governing Documents. The Covered Person may, but is not required to, provide a written response that presents any additional facts, evidence, explanations, or mitigating facts or circumstances to Professional Conduct for further consideration. Responses to the Statement of Allegations must be received within the time provided by Professional Conduct to receive consideration.

If the Covered Person provides a response to the Statement of Allegations in the time provided, Professional Conduct will consider the submission and may continue the investigation, close the investigation, or proceed to issue a Statement of Charges. The written response of a Covered Person also may be presented and considered as evidence if the matter results in a Disciplinary Proceeding. If the Covered Person does not respond to the Statement of Allegations within the time provided, Professional Conduct may continue the investigation, close the investigation, or proceed with a Statement of Charges.

### **Rule 2.7 Statement of Charges**

If Professional Conduct determines, upon consideration of the evidence and, if applicable, the Covered Person's response to the Statement of Allegations, that it is more likely than not that the Covered Person committed a violation of the Governing Documents and a disciplinary sanction is warranted, Professional Conduct will provide the Covered Person with a Statement of Charges.

The Statement of Charges will notify the Covered Person of Professional Conduct's findings of fact, conclusion as to violation(s), and recommended sanction(s). Professional Conduct also will provide copies of all non-public documents it considered relevant to its findings of fact and conclusion as to violation(s) that were obtained from third-parties (*i.e.*, sources other than the Covered Person or their representatives), after removing any confidential information. Transcripts or other recordings of any investigative interviews conducted by Professional Conduct will be made available to the Covered Person upon written request.

### **Rule 2.8 Covered Person's Answer to the Statement of Charges**

The Covered Person must submit a written Answer to the Statement of Charges and specifically admit or deny each of the alleged findings of fact and conclusions as to violations, and accept or reject the recommended sanction within 21 days.

If the Covered Person answers and admits to all of the alleged findings and violations, and accepts the recommended sanction (or fails to respond to the Statement of Charges within the time provided), Professional Conduct will refer the matter to a Review Panel, as provided under Rule 3.1. However, if the recommended sanction was a Private Reprimand, that sanction will be deemed accepted by the Covered Person and the matter will be considered final without the need of a Review Panel.

If the Covered Person answers and denies any of the alleged findings or violations and/or does not accept the recommended sanction(s) in the Statement of Charges, Professional Conduct may refer the matter to a Hearing Panel.

### **Rule 2.9 Settlement Agreements**

Professional Conduct and the Covered Person may at any time resolve a disciplinary matter (investigation or proceeding) through a negotiated Settlement Agreement. The agreement must be in writing and include findings of facts, a conclusion as to the violation(s), and an agreed upon sanction.

Settlement Agreements in which the agreed upon sanction is a Censure, Suspension, Revocation, or Prohibition must be presented to a Review Panel for final consideration and acceptance, as provided under Rule 3.1. For the sole purpose of making its determination whether to accept or reject the proposed settlement, the Review Panel will consider the findings and conclusion in the agreement to be admitted. If the Settlement Agreement is accepted, the matter is final.

If the proposed Settlement Agreement is rejected by the Review Panel, the investigation or proceeding may resume or proceed and the findings, conclusion, and/or agreed upon sanction considered by the Review Panel are not binding and may be contested. Settlements in which the agreed upon outcome is a Private Reprimand are considered final and effective upon execution by the parties.

## **RULE 3: REVIEW PROCESS**

### **Rule 3.1 Review Panel Procedures**

If the Covered Person accepts the Statement of Charges, or fails to reject the Statement of Charges within the time provided, and the recommended sanction is a Censure, Suspension, Revocation, or Prohibition, the findings of fact, conclusion as to violation(s), and recommended sanction(s) will be deemed accepted by the Covered Person and Professional Conduct will refer the matter to a Review Panel. Settlement Agreements in which the agreed upon sanction is a Censure, Suspension, Revocation, or Prohibition also will be referred to a Review Panel.

The Review Panel will be selected and conducted in the same manner as a Hearing Panel (see Rule 4.2) but will meet outside the presence of the Covered Person and Professional Conduct. The Review Panel will be provided with a copy of the executed Settlement Agreement or the Statement of Charges and the Covered Person's Answer, if applicable.

Professional Conduct may submit additional documents and information to the Review Panel with the Covered Person's consent or waiver. Professional Conduct must submit all documents for consideration by the Review Panel to the Hearing Panel Administrator at least 14 days before the Review Panel.

### **Rule 3.2 Review Panel Standard of Review and Decision**

For the sole purpose of making its determination whether to approve or reject a Settlement Agreement or accepted Statement of Charges, the Review Panel will consider the findings of fact and conclusion as to violation(s) to be admitted by the Covered Person. After considering the documents presented, the Review Panel will determine, based on the accepted findings of fact, whether the conclusion as to violation(s) and the recommended sanction(s) in the Statement of Charges or proposed Settlement Agreement are reasonable.

If the Review Panel finds the conclusion as to violation(s) and the recommended sanction(s) reasonable, they will be accepted, and the outcome will be final. The Review Panel may accept the conclusion as to violation(s) and impose a lesser sanction; however, they may not impose a more severe sanction.

If the Review Panel does not find the conclusion as to violation(s) and/or the recommended sanction(s) reasonable, the Review Panel must reject the proposed Settlement Agreement or accepted Statement of Charges. Professional Conduct may then continue the investigation and/or refer the matter to a Hearing Panel.

## **RULE 4: HEARING PROCESS**

### **Rule 4.1 Scheduling a Hearing Panel**

If a Covered Person (or Review Panel) rejects the Statement of Charges, Professional Conduct will refer the matter to a Hearing Panel. Hearings will be conducted by telephone conference call or video conference (if practical). If the Covered Person and Professional Conduct agree, the case may instead be considered and decided by the Hearing Panel on the basis of written submissions only. Hearings on written submissions only will be conducted outside the presence of the Covered Person and Professional Conduct and will not be transcribed or recorded.

If the recommended sanction is a Suspension, Revocation, or Prohibition, the Covered Person may request an in-person hearing. However, only those Covered Persons that have earned the CFA, FSIP, ASIP, and/or CIPM professional designation are eligible for an in-person hearing. Any requests for an in-person hearing must be received by the Hearing Panel Administrator, in writing, at the time of the Covered Person's rejection of the Statement of Charges (or within 7 days of notification of the Review Panel's rejection of the Statement of Charges). In-person Hearing Panels will be conducted at a CFA Institute office or such other location designated by CFA Institute.

A Hearing Panel will be scheduled for a date and time that are agreeable to both the Covered Person and Professional Conduct. If an agreement cannot be reached, the date and time for the Hearing Panel will be determined by the DRC Chair, or their designee. Once a hearing has been scheduled, any requests to reschedule must be submitted in writing to the Hearing Panel Administrator. The DRC Chair, or their designee, has the sole discretion to grant or deny any request to reschedule a hearing.

In related matters, Covered Persons and/or Professional Conduct may request to have more than one Covered Person's case determined in a single Disciplinary Proceeding. Such requests must be submitted in writing to the DRC Chair. If the Covered Persons and Professional Conduct do not agree on a single proceeding, the DRC Chair, or their designee from the DRC, will determine whether to proceed with single or multiple hearings.

If a Covered Person requests a hearing but subsequently fails to cooperate in the scheduling of that proceeding, the original request will be considered withdrawn or abandoned, the findings of fact and conclusion as to violation(s) will be deemed accepted, the recommended sanction(s) will be imposed without further review, and the Covered Person will have waived all rights to further review.

If a Covered Person requests a Hearing Panel, but subsequently fails to participate in that proceeding, the Hearing Panel will proceed with the hearing and make its determination without the Covered Person's participation. The Hearing Panel may, at its discretion, reschedule or resume a Disciplinary Proceeding if the Panelists determine by majority vote that the Covered Person's failure to participate was unanticipated and for reasons beyond their control. Otherwise, a Covered Person may not request an appeal in a proceeding in which they did not participate.

If a Covered Person requests a Hearing Panel but subsequently agrees to a written Settlement Agreement with Professional Conduct, the Hearing Panel will be converted into a Review Panel and will proceed under Rule 3.

#### **Rule 4.2 Selection of Hearing Panelists**

The DRC Chair, or their designee from the DRC, will appoint three to five voting members and one alternate from the DRC to a Hearing Panel, one of whom will be selected as the Hearing Panel Chair. Alternates appointed for in-person hearings will not travel to, or participate in, the proceeding unless it is determined at least 7 days prior to the hearing that a voting member is unable to participate or is disqualified. For Hearing Panels held by telephone conference call, video conference, or on written submissions, the alternate will attend the hearing as an observer, but will not participate in the Hearing Panel deliberations or vote unless a voting member is unable to participate or is disqualified.

#### **Rule 4.3 Notice of Hearing and Challenge Procedures**

The Hearing Panel Administrator will provide at least 40 days' notice of the hearing to the Covered Person and Professional Conduct. The notice of hearing will include the date and time (and location, if applicable) as well as the identities of the Hearing Panelists and an explanation of the process for challenging Hearing Panelists' participation on the Hearing Panel.

The Covered Person and Professional Conduct will each have 7 days from the date of the notice of hearing to disqualify one panelist's participation on the Hearing Panel without stating a reason. The Covered Person and Professional Conduct may also challenge an unlimited number of Hearing Panelists but must state a reason for the challenge. Hearing Panelists who are challenged for a stated reason will be disqualified from the panel

- a) by agreement between the Covered Person and Professional Conduct;
- b) absent an agreement, by decision of the Hearing Panel Chair; or
- c) by decision of the DRC Chair, or their designee, if necessary, because of a challenge to the Hearing Panel Chair.

A disqualified panelist may be replaced in the same manner as panelists were appointed.

#### **Rule 4.4 Pre-Hearing Submissions**

It is important to the disciplinary process for the Hearing Panel to receive written pre-hearing submissions from both Professional Conduct and the Covered Person. Pre-hearing submissions should state the relevant facts, explain each party's respective position, and include a list of proposed witnesses and a copy of all supporting documents referenced in the submission or to be presented and relied on at the hearing. Witness lists must include the names, contact information, and a brief description of each person's expected testimony.

All documents submitted in connection with a disciplinary proceeding must be legible, presented in an organized manner, and written in or translated into English.

Professional Conduct's pre-hearing submission will be provided to the Covered Person and Hearing Panel Administrator at least 30 days prior to the hearing. The Covered Person must then provide their pre-hearing submission to Professional Conduct and the Hearing Panel Administrator at least 21 days prior to the hearing. Professional Conduct may, at its discretion, supplement its pre-hearing submission so long as it is provided to Covered Person and Hearing Panel Administrator at least 14 days prior to the hearing.

The Hearing Panel Administrator will provide all pre-hearing submissions to the Hearing Panelists in advance of the hearing. Any submissions, witnesses, or documents not provided in accordance with this rule may be excluded from consideration by the Hearing Panel at its discretion.

#### **Rule 4.5 Hearing Procedures**

All Hearing Panels will be conducted in English. Each witness, including the Covered Person, will be asked to swear or affirm that their testimony will be truthful. Witnesses (other than the Covered Person) may not attend or participate in a hearing until called to testify.

The Covered Person and Professional Conduct will each have the opportunity to present evidence and testimony, question all witnesses, present arguments, and respond to the evidence, testimony, and arguments presented by the other. Panel members may also question witnesses during the proceeding.

An audio or stenographic recording or transcript will be made of every hearing conducted under Rule 4, the costs of which will be paid by CFA Institute. Hearing Panel deliberations will not be recorded. A copy of the recording or transcript will be made available to the Covered Person on request.

The Hearing Panel is not bound by any rules of evidence, such as those applicable in courts of law, and may upon request, or at its own discretion, exclude or disregard any documents, information, or testimony that it deems unreliable, repetitive, or irrelevant to the proceeding.

At the end of the hearing, the Hearing Panel will deliberate outside the presence of the Covered Person and Professional Conduct to make findings of fact and decide whether the Covered Person committed the alleged violation(s) and, if so, what the appropriate sanction(s) should be, if any.

#### **Rule 4.6 Standard of Proof**

The Hearing Panel must determine whether, by a preponderance of the evidence, the alleged violation(s) occurred. A preponderance of the evidence means that it is "more likely than not" that the Covered Person committed the alleged violation(s). Professional Conduct has the burden of proof.

#### **Rule 4.7 Hearing Panel Decision**

The decision of the Hearing Panel must be based solely on the evidence and testimony presented in the pre-hearing submissions and at the hearing and relate only to the allegations identified and communicated to the Covered Person in the Statement of Charges.

The Hearing Panel must be comprised of at least three members and their determinations will be made by a simple majority vote. The Hearing Panel will determine findings of fact, make a conclusion as to violation(s), and if appropriate, impose a sanction(s). The Hearing Panel may impose the sanction recommended by Professional Conduct, a lesser or greater sanction, or no sanction.

The Hearing Panel Chair, or their designee from the Hearing Panel, will issue a written decision setting forth the Hearing Panel's findings of fact, conclusion as to violation(s), and sanction(s), if any. The Hearing Panel decision will be sent to the Covered Person and Professional Conduct within 35 days following the conclusion of the hearing.

The decision of the Hearing Panel will be final unless the sanction imposed is a suspension of membership, suspension of the right to use the CFA designation, revocation of membership, revocation of the right to use the CFA designation, or a prohibition from participation in the CFA Institute Exam Program, in which case the Covered Person may request an appeal of the Hearing Panel decision as provided in Rule 5.

## **RULE 5: APPEAL PROCESS**

### **Rule 5.1 Covered Person's Request for Appeal**

If the Hearing Panel imposes a suspension of membership, suspension of the right to use the CFA designation, revocation of membership, revocation of the right to use the CFA designation, or a prohibition from participation in the CFA Institute Exam Program, the Covered Person may request an appeal of the Hearing Panel's decision. The request must be made in writing to the Hearing Panel Administrator and Professional Conduct within 28 days of the date of the Hearing Panel decision letter.

Along with the request for appeal, the Covered Person must simultaneously provide a written submission for the Appeal Panel's consideration stating the relevant facts and reasons why the Hearing Panel erred in its findings of fact or conclusion as to violation(s) and/or why the sanction(s) imposed is unfair.

### **Rule 5.2 Professional Conduct's Response to Appeal**

Professional Conduct may, within 28 days of receipt of the Covered Person's request for an Appeal Panel, submit a written response. A copy of Professional Conduct's written submission will be provided to the Covered Person and the Hearing Panel Administrator.

Any requests by the parties for additional time to make their submissions on appeal will be decided by the DRC Chair, or their designee, unless the parties have agreed to an extension. In the absence of a request for extension before the deadline, any submissions to the Appeal Panel not provided in accordance with these Rules may be excluded from consideration by the Appeal Panel in their discretion.

### **Rule 5.3 Standard of Review**

The Appeal Panel must determine whether there was a clear and material error in the findings of fact or conclusion as to violation(s) and/or whether the sanction(s) imposed was unfair. The Appeal Panel will affirm the Hearing Panel's decision unless the Covered Person's written submission identifies a clear and material error in the findings of fact or conclusion as to violation(s) made by the Hearing Panel or shows that the sanction(s) imposed by the Hearing Panel was unfair. In assessing sanctions, the decision of the Hearing Panel will be upheld unless it was so clearly unreasonable, given the entirety of the evidence, that it was unfair or unjust.

### **Rule 5.4 Selection of Appeal Panelists**

An Appeal Panel will consist of five voting members. The DRC Chair, or their designee from the DRC, will appoint to the Appeal Panel four current or former members from the DRC, one of whom will be selected as the Appeal Panel Chair, and one member who is a current or former member of the CFA Institute Board.

### **Rule 5.5 Notice of Appeal Panel and Challenge Procedures**

The Covered Person and Professional Conduct will be provided at least 21 days' notice of the Appeal Panel date. The notice of Appeal Panel will include the identities of the Appeal Panelists and explain the process for challenging Appeal Panelists' participation.

The Covered Person and Professional Conduct will each have 7 days from the date of the notice of Appeal Panel to challenge one panelist's participation without stating a reason.

The Covered Person and Professional Conduct may also challenge an unlimited number of Appeal Panelists but must state a reason for the challenge. Appeal Panelists who are challenged for a stated reason will be disqualified

- a) by agreement between the Covered Person and Professional Conduct;
- b) absent an agreement, by decision of the Appeal Panel Chair; or
- c) by decision of the DRC Chair, or their designee, if necessary, because of a challenge to the Appeal Panel Chair.

A disqualified panelist may be replaced in the same manner as panelists were appointed.

### **Rule 5.6 Appeal Panel Procedures**

The Appeal Panel will meet by telephone conference call outside the presence of the Covered Person and Professional Conduct. The Appeal Panel deliberations will not be transcribed or recorded.

The Appeal Panel will be sent a copy of the hearing transcript or recording (if applicable), the pre-hearing submissions from the Covered Person and Professional Conduct, the Hearing Panel decision, and the written submissions to the Appeal Panel by Professional Conduct and the Covered Person.

### **Rule 5.7 Appeal Panel Decision**

The Appeal Panel must be comprised of at least three members, and their determinations will be made by a simple majority vote. The Appeal Panel Chair, or their designee from the Appeal Panel, will issue a written decision as to whether there was a clear and material error in the Hearing Panel's findings and/or whether the sanction imposed by the Hearing Panel is unfair. The Appeal Panel may at its discretion impose no sanction, the same sanction imposed by the Hearing Panel, a lesser sanction, or a greater sanction.

The Appeal Panel decision will be provided to the Covered Person and Professional Conduct by the Hearing Panel Administrator within 35 days after the hearing. The decision of the Appeal Panel is final.

## **RULE 6: SUMMARY SUSPENSIONS**

### **Rule 6.1 Grounds for Summary Suspension**

Professional Conduct may, in its discretion, impose a summary suspension if

- a) a Covered Person is convicted of, pleads guilty to, or consents to the imposition of punishment for any crime that is "punishable" by more than one year in prison (regardless of the actual sentence imposed);
- b) a Covered Person is barred or suspended permanently, for an indefinite period, or for a period of two or more years, from registration or participation under the securities laws or similar laws or rules relating to the investment decision-making process; or from participation, association, or affiliation by a regulator, court, or government agency; or by a public or private self-regulatory organization with legal authority over the investment decision-making process; or
- c) a Covered Person fails to cooperate fully with Professional Conduct in any investigation of the Covered Person's conduct or misuses the CFA designation while their membership is lapsed.



Bars and suspensions that have been imposed “with a right to re-apply” at some future time are deemed to be “for an indefinite period” for purposes of this rule.

### **Rule 6.2 Notice of Summary Suspension**

If a summary suspension is imposed, Professional Conduct will provide the Covered Person with a written notice of summary suspension, which will also advise the Covered Person of the right to request a review by a Summary Suspension Hearing Panel.

### **Rule 6.3 Request for Review of Summary Suspension**

To obtain a review of the summary suspension, the Covered Person must provide a written request within 21 days of the date of the notice of summary suspension. Professional Conduct will refer the matter to a Summary Suspension Hearing Panel.

### **Rule 6.4 Failure to Request Review of Summary Suspension**

If the Covered Person does not request a review of the summary suspension within 21 days of the date of the notice of summary suspension, the summary suspension automatically becomes a revocation and/or prohibition.

### **Rule 6.5 Summary Suspension Hearing Panel**

A Summary Suspension Hearing Panel will be formed and conducted as provided in Rule 4, except that there will be no in-person hearings, no recording or transcription, and no right to an Appeal Panel. Professional Conduct must provide its pre-hearing submission to the Covered Person and the Hearing Panel Administrator at least 30 days before the Summary Suspension Hearing Panel. The Covered Person must provide their pre-hearing submission to Professional Conduct and the Hearing Panel Administrator at least 21 days before the Summary Suspension Hearing Panel.

The Covered Person has the burden to prove by a preponderance of the evidence that the summary suspension is not reasonable. Absent such a showing, the Summary Suspension will be affirmed by the Panel. If a Summary Suspension Hearing Panel affirms the summary suspension, the sanction automatically becomes a revocation and/or prohibition. If the Summary Suspension Hearing Panel finds the summary suspension was not reasonable and rejects the summary suspension, Professional Conduct may close the matter or continue its investigation into the Covered Person’s conduct.

### **Rule 6.6 Reversal of a Revocation and/or Prohibition Imposed Pursuant to Rule 6.1(a) or (b)**

A revocation and/or prohibition imposed under Rule 6.1(a) or (b) may be rescinded by Professional Conduct if the Covered Person provides reliable evidence demonstrating that the underlying criminal conviction, bar, or suspension has been reversed and no longer meets the sanction criteria under Rule 6.1(a) or (b). Professional Conduct, however, may open, or reopen and continue, an investigation into the underlying conduct and pursue charges for any violations of the Governing Documents. A notice of the reversal of the revocation and/or prohibition may also be published.

### **Rule 6.7 Reversal of a Revocation and/or Prohibition Imposed Pursuant to Rule 6.1(c)**

If the Covered Person agrees to cooperate with Professional Conduct’s investigation, or promptly ceases their misuse of the CFA designation, Professional Conduct may, at its discretion, rescind the notice of summary suspension and reverse the revocation and/or prohibition on such conditions as Professional Conduct may impose. A notice of the reversal may also be published.

## **RULE 7: REINSTATEMENT PROCESS**

### **Rule 7.1 Reinstatement Following Timed Suspension**

A Covered Person who has received a suspension of membership, suspension from participation in a CFA Institute Exam Program, or suspension of the right to use the CFA designation will be reinstated on the expiration of the period of suspension, provided the Covered Person completes and files a Professional Conduct Statement (or its equivalent) with CFA Institute confirming that they have not been the subject of any disciplinary action since the suspension became effective and provided the Covered Person pays all applicable membership dues.

### **Rule 7.2 Petition, Investigation, and Review for Reinstatement Following Prohibition or Revocation**

A Covered Person who received a prohibition from participation in a CFA Institute Exam Program or a revocation of membership and/or the right to use the CFA designation for industry-related conduct may seek reinstatement by submitting a petition for reinstatement to Professional Conduct. To be eligible to seek reinstatement, the petitioner must wait at least five years after the effective date of the revocation or prohibition.

On receipt of a petition for reinstatement, Professional Conduct may conduct any necessary investigation.

On completion of the investigation, Professional Conduct will send a written recommendation to the Reinstatement Panel and the petitioner. The petitioner may then submit written information to the Reinstatement Panel on their behalf.

The Reinstatement Panel will be organized and conducted in accordance with Rule 4, except that there will be no in-person hearings. The Reinstatement Panel will be provided with a copy of the transcript(s), if available, and the decision(s) from any prior Disciplinary Proceeding(s). The reinstatement hearing itself will be recorded, but not transcribed.

The petitioner must demonstrate to the Reinstatement Panel's satisfaction their professional competence and fitness to practice, which will include sufficient evidence demonstrating rehabilitation and full compliance with all disciplinary orders, including those that required payments of fines, disgorgement, damages, remediation, and costs.

If the petition for reinstatement is denied, the Reinstatement Panel may mandate that Professional Conduct not accept any further petitions for reinstatement permanently, or for a period, or subject to the satisfaction of any condition(s) the Panel may impose.

If a petition for reinstatement is granted, a notice of the reinstatement may be published.