

Enhancing the Disciplinary Process at CFA Institute

The mission of CFA Institute is to lead the investment profession globally by promoting the highest standards of ethics, education, and professional excellence for the ultimate benefit of society. A robust disciplinary process both supports and advances this important mission. The disciplinary process is governed by the CFA Institute Bylaws and the Rules of Procedure for Professional Conduct (Rules), which may be amended from time to time. Recently, the Board of Governors approved several amendments to the Rules and a change to the Bylaws. These amendments fall into two broad categories: changes that protect the reputation of the organization, its members and the CFA charter; and changes that further enhance the effectiveness and efficiency of the disciplinary process to ensure its sustainability.

To protect the reputation of the organization, its members and the CFA charter, the definition of “Covered Person” in the Bylaws and Rules has been expanded. CFA Institute has disciplinary authority over all “Covered Persons” as that term is defined in the Bylaws and Rules. Previously, that definition included only current Members and Candidates, as well as Postponed Candidates (*i.e.*, individuals who have registered, but are not currently enrolled to take the CFA exam). In order to more effectively address the problem of individuals who are misusing the CFA designation, the definition of a Covered Person in the Bylaws and Rules has been expanded to include two new categories: (1) those who have passed all three levels of the CFA exam, but who have not obtained the CFA charter or become members (Charter Pending); and (2) those who have not maintained their CFA Institute memberships and/or filed their annual Professional Conduct Statements (Lapsed Members). This important change in the Bylaws and Rules will enable CFA Institute to investigate and take disciplinary action, and deter those individuals from misusing the designation.

The intent of this change has always been to protect the designation by pursuing those individuals who misuse it. However, based on the input we received during the public comment period, it became evident that our intended purpose was not sufficiently clear. In response, language was added to the Bylaws and Rules to clarify the purpose in expanding the definition of Covered Person. This clarification should also assuage commentators’ concerns about proper resource allocation.

The Summary Suspension process has been extended to address misconduct by Lapsed Members, Charter Pending, and Postponed Candidates that may pose a risk of reputational harm to the organization, its members or the CFA designation. Under both the old and new Rules, CFA Institute can summarily suspend a Covered Person in certain special situations. For example, if a Charterholder Member has been found guilty of a felony or crime punishable by more than one year in prison, or has been barred permanently or for an indefinite period by a securities regulator, CFA Institute can summarily suspend, and ultimately revoke, that person’s membership and right to use the CFA designation. Under the newly expanded definition of Covered Person, Postponed Candidates, Charter Pending, and Lapsed Members may also now be summarily suspended. The new Rules also allow CFA Institute to summarily suspend Postponed Candidates, Charter Pending, and Lapsed Members, who have been suspended for

two or more years by a securities regulator. The process through which individuals may contest a summary suspension remains the same as before.

These important changes will allow CFA Institute to use its resources wisely by summarily suspending individuals when we become aware of egregious conduct that has already warranted a significant regulatory sanction or criminal penalty if and when such a person is misusing the CFA designation or attempting to reinstate their membership in CFA Institute or participation in the CFA Program. Being able to take swift action enables CFA Institute to better protect the designation, the membership, and the organization from reputational harm.

To create a sustainable disciplinary process, only CFA Charterholders may request in-person hearings in industry-related matters. Under the old Rules, all Covered Persons suspected of violating the Code and Standards involving industry-related matters could request in-person hearings. Under the new Rules, only individuals who are CFA Charterholders (including the CIPM, ASIP and FSIP designations) may have their hearings conducted in-person. This change recognizes Charterholders typically have made a greater investment in CFA Institute than other Covered Persons, and have more at stake in the disciplinary process. Non-Charterholders will still be able to have their hearings conducted by written submissions or telephone conference call (or videoconference, if practical) and will continue to have a full and fair opportunity to be heard.

The new Rules will also result in significant efficiencies by limiting in-person hearings in industry-related matters to cases where the recommended sanction is a Timed Suspension or Revocation. Under the old Rules, Covered Persons were allowed in-person hearings in industry-related matters, regardless of the recommended sanction. To make more effective use of the limited resources of CFA Institute, the new Rules also limit in-person hearings to cases in which the recommended sanction is a Timed Suspension or Revocation. All Covered Persons (including Charterholders) may still request that their hearing in industry-related cases be conducted by written submissions or telephone conference call (or videoconference, if practical) regardless of the sanction.

There are other significant improvements in the new Rules, such as the voluntary expedited exam process and clarity in the appeal process and the confidentiality provisions not summarized here. They are all available for your review at:

https://www.cfainstitute.org/ethics/conduct/Documents/2015_rules_of_procedure.pdf

We encourage you to familiarize yourself with all of the changes.

We would like to give our thanks to our engaged and thoughtful membership who submitted insightful and valued comments during the public comment period. As always, we are a community that values each other and look forward to collectively ensuring continuous improvement and sustainability to keep our disciplinary program best in class.