An Inside Look at the Disciplinary Process

BY DOROTHY KELLY, CFA

David Stevens, CFA, chair of the Disciplinary Review Committee (DRC), and Christine Koppel, CFA, the Designated Officer responsible for overseeing the CFA Institute Professional Conduct Program (PCP), sat down to discuss the CFA Institute disciplinary process, the work of the PCP and the DRC, and how each process has adapted over time.

How do you describe the CFA Institute disciplinary process to members and other individuals?

Koppel: Our disciplinary process is a multilevel peer review process.

How would you explain peer review to those who are unfamiliar with the concept?

Stevens: In a peer review process, a group of professionals in a given field is charged with reviewing or evaluating a colleague's performance or work to ensure it meets the standards of the profession. Peer review is a way for a profession to exercise self-regulation, maintain standards, and enhance the profession and its credibility in society. Many professions (including academia, health care, software development, and the legal profession) use the concept of peer review to uphold standards in their specific fields. For example, in academia or software development peers evaluate the work of a fellow member to ensure the work meets certain standards. CFA Institute applies the concept of peer review in disciplinary matters to determine whether certain conduct meets the CFA Institute Code of Ethics and Standards of Professional Conduct.

So members and candidates are judged by their peers?

Koppel: In the concept of peer review, peer refers to a qualified member of the profession, someone who is of the same or higher ranking in the profession. At CFA Institute, the peers are CFA charterholders.

What makes it a multilevel process?

Stevens: The Designated Officer conducts an initial peer review; in certain cases, the DRC contributes additional levels of peer review. The multilevel aspect provides a process of checks and balances to ensure fairness and consistency.

Koppel: It's similar to the checks and balances built into the CFA Institute grading process. Each June, CFA charterholders grade all of the Level III essay answers. When that's completed, a second set of graders review exams that fall within a range of scores to ensure that the scores are appropriate and consistent. Consistency is important for both the CFA Program and the disciplinary process.

How does the DRC contribute to the checks and balances?

Stevens: Members of the DRC serve on disciplinary panels that hear all contested disciplinary cases—matters where the member or candidate rejected the Designated Officer's findings and/or recommended sanction. In addition, DRC members serve on disciplinary panels to review matters in which the member and Designated Officer have agreed to a sanction of censure, timed suspension, or revocation. During the first three quarters of 2011, members of the DRC served on 103 disciplinary panels.

Koppel: During that same period, the PCP staff concluded an additional 728 professional conduct matters. It's a lot of cases, but they represent a very small percentage of CFA Institute candidates and members.

Has the disciplinary process changed much over the years?

Koppel: The basic process hasn't changed much over the years, but how we execute it has changed quite a bit. The growth in the CFA Program means that our jurisdiction now includes 111,000 members and more than 200,000 candidates in at least 90 countries. So both CFA Institute staff and the DRC have adapted to deal with the increased volume and the geographic and cultural diversity.

"We've added staff to handle the increased volume, and we now categorize disciplinary matters as either exam-related, or non-exam-related—also known as industry cases. Industry cases are generally associated with practitioner issues and currently represent about one-third of the caseload. We divide the cases among exam investigators and industry investigators because the knowledge, skills, and abilities needed for the two types of cases are quite different.

Stevens: On the DRC side, we changed how we conduct exam-related disciplinary proceedings. Exam-related proceedings are now based entirely on written submissions. Eliminating verbal testimony from exam-related proceedings means that candidates for whom English is a second language need not be concerned about how well they communicate verbally.

Koppel: We adopted an electronic case management system and eliminated a lot of the paper associated with disciplinary proceedings. Investigations and disciplinary proceedings can be extremely paper intensive. In the past, each of the five panel members would receive a copy of the written submissions and documentary evidence submitted for a given hearing. Panelists would often receive four-inch binders—sometimes more than one—to review prior to a disciplinary proceeding. Now all these documents are distributed to panelists electronically and they download the materials onto electronic tablets. We're saving trees, staff resources, paper costs, and shipping costs.

Has the changing geographic and cultural diversity of the membership and candidate base had an impact on the disciplinary process?

Koppel: Yes and no. CFA Institute is a global organization, and the rules and the Code and Standards are applied globally. Every member and candidate is required to abide by the same rules and the Code and Standards. Nonetheless, we've made a conscious decision to be more culturally aware in all of our activities and communications.

Stevens: Two years ago, DRC members worked with staff from the PCP and the office of general counsel to revise the Rules of Procedure for Professional Conduct to provide greater clarity—particularly for those involved in the disciplinary process. The overarching goal was to make the process more transparent and, as a result, increase fairness, but a major consideration was the cultural diversity and language abilities of our global membership and candidate base. We wanted to make the document understandable for members and candidates for whom English is a second language. Before I joined the DRC in 2006, the committee had about a dozen members, many of whom were from North America. To tap into and reflect the broad diversity of our membership at the time, the CFA Institute Board of Governors expanded the DRC by about 50 percent and appointed members from around the globe. At the same time, the Board of Governors created the hearing panel pool from which we could draw other volunteer members to serve alongside DRC members on disciplinary panels. The creation of the hearing panel pool was based on the belief that members and candidates facing disciplinary charges should be judged by panels that resemble the broad membership. It makes sense given that our process is based on the concept of peer review. We have a globally diverse membership and candidate base, so the disciplinary panels should reflect that diversity.

Koppel: More than 150 members from around the globe volunteered to serve in the hearing panel pool. It's a testament to the commitment and volunteer spirit of our membership that so many members stepped forward to contribute to the effort.

Stevens: In the end, we found that training such a large pool of volunteers on a continual basis was a significant challenge, so the Board of Governors made the decision to disband the pool and further expand the DRC.

What is the current composition of the DRC?

Stevens: We now have 30 CFA charterholders from 11 countries serving on the DRC. Many of the committee members have lived, studied, and/or worked internationally, so the global diversity is actually a bit higher than what is reflected in those numbers. The committee is also professionally diverse—we have academics, asset managers, analysts, regulators, and consultants serving side by side. The geographic, cultural, and professional diversity in the committee reflects the diversity of our membership and candidate base and ensures a global perspective.

And they receive ongoing training?

Stevens: Yes, and the training has become more rigorous. We've had training in the past, but committee members now receive live training regularly, with more intensity, and through a variety of methods. Training topics include questioning skills, how to lead a disciplinary panel, and proper global etiquette and decorum. Additionally, this year we offered a "boot camp" event for new DRC members. They came to Charlottesville, Virginia, and received two days of training. The first day staff provided training on the disciplinary process; the second day members participated in a mock disciplinary hearing.

How else have you adapted?

Stevens: After we expanded the DRC to 30 members, we created an executive team, which includes a deputy chair position, to provide additional leadership. At least one executive team member is assigned to each disciplinary panel. The executive team also works on policy review and contributes to member evaluations, which we use to determine whether a member needs additional training or coaching. The deputy chair serves as liaison to the Code and Standards of Practice Council and leads meetings when the chair is absent.

Koppel: We have become more transparent with regard to the disciplinary process as well as the sanctions imposed. Notices of disciplinary action include more detailed descriptions of the misconduct and are published both in *CFA Magazine* and on the CFA Institute website. Our website also includes a list of individuals who are currently under sanction by CFA Institute.

Why does CFA Institute do all of this?

Koppel: Our job is to protect the integrity of the CFA membership, designation, and examination, so while fewer than 1 percent of our members and candidates are involved in the peer review disciplinary process, our work affects every member and candidate.

Stevens: On a personal level, I enjoy the opportunity to work with other charterholders who are passionate about ethics and fairness. It has been an honor to be a part of this process.

Dorothy Kelly, CFA, is director of training and outreach for the CFA Institute Professional Conduct Program.

For more information on how to volunteer for the DRC, see p.50.

For guidance in applying the Code and Standards, contact ethics@cfainstitute.org.

To report misconduct by a member or candidate, contact professional_conduct@cfainstitute.org.