

## Funding Portal Written Supervisory Procedures Checklist

**Overview** – This Written Supervisory Procedures Checklist (“WSP Checklist”) outlines selected key topics as a reference tool to assist funding portal members (“FP members”) in fulfilling their compliance obligations.

Most of the key requirements that apply to funding portal members are set forth under [Regulation Crowdfunding](#), which the Securities and Exchange Commission (“SEC” or “Commission”) adopted pursuant to the JOBS Act of 2012 (the “JOBS Act”). Throughout this Checklist, we refer to “Regulation Crowdfunding” as “Reg CF” for short. Funding portal members are also subject to the [FINRA Funding Portal Rules](#), referred to as the “FP Rules.”

[This tool is intended to be a short summary of relevant obligations and FPs should review Reg CF and FP Rules for all relevant details to review their compliance programs.](#)

Please note that some of the rules referenced below apply by their terms to “intermediaries.” An intermediary is either an FP member or a broker-dealer that engages in Regulation Crowdfunding activity and, as such, the requirement applies to both types of entities.

**FINRA Compliance Tools Disclaimer** – This optional tool is provided to assist member firms in fulfilling their regulatory obligations. This tool is provided as a starting point and you must tailor this tool to reflect the size and needs of your firm. Using this tool does not guarantee compliance with or create any safe harbor with respect to FINRA rules, the federal securities laws or state laws, or other applicable federal or state regulatory requirements. This tool does not create any new legal or regulatory obligations for firms or other entities.

**Updates** – This tool was last reviewed, and updated as needed, on February 9, 2024. This tool does not reflect any regulatory changes since that date. FINRA periodically reviews and update these tools. FINRA reminds member firms to stay apprised of new or amended laws, rules and regulations, and update their WSPs and compliance programs on an ongoing basis.

Member firms seeking additional guidance on certain regulatory obligations should review the [Funding Portal Topic Page](#) and any relevant [FINRA Topic Pages](#).

**Staff Contact(s)** – FINRA’s Office of General Counsel (OGC) staff provides broker-dealers, attorneys, registered representatives, investors and other interested parties with interpretative guidance relating to FINRA’s rules. Please see [Interpreting the Rules](#) for more information.

OGC staff contacts:

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Section	Topic	Items Required to be Addressed	References(s)	Date Last Reviewed?
<b>Exemption</b>				
<b>General</b>	Crowdfunding Exemption and Requirements	Scope of the Crowdfunding Exemption	Reg CF Rule 100(a) <sup>1</sup> – Aggregate amount of securities that an issuer is permitted to offer and sell; limitations on the amount a non-accredited investor may purchase.	
<b>Supervisory Designations and Qualifications</b>				
FP Rules	Compliance Program	Supervisory System	FP Rule 300(a)(1)(B) – An FP member must designate a person with authority to carry out supervisory responsibilities of the FP member.	
FP Rules	Compliance Program	Supervisory System	FP Rule 300(a) and Reg CF Rule 403(a) – Requirement to establish and maintain written procedures to supervise activities of the FP member and its associated persons; policies and procedures must be reasonably designed to achieve compliance with the federal securities laws and the rules thereunder.	
FP Rules	Compliance Program	Supervisory System	FP Rule 300(a)(2) – An FP member must permit the examination and inspection of all of its business and business operations that relate to its activities as a funding portal, such as its premises, systems, platforms and records, by FINRA and the SEC. An FP member must cooperate with the examination, inspection, or investigation of any persons directly or indirectly using its platform.	
<b>Issuers</b>				
Requirement for Issuers	Disclosure Requirements	Solicitations of Interest and Other Communications	Reg CF Rule 206 – This rule permits an issuer, at any time before the filing of an offering statement, to communicate orally or in writing to determine whether there is any interest in a contemplated offering. This is commonly called “testing the waters.” Such communications must comply with the requirements under the rule.	

<sup>1</sup> In late 2020, the SEC used its general exemptive authority to increase the aggregate offering limit to \$5 million. See Securities Exchange Act Release No. 90300 (November 2, 2020), 86 FR 3496 (January 14, 2021) (Final Rule: Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets). Separately, pursuant to requirements under the JOBS Act, the SEC has made inflation adjustments to the investment limits for non-accredited investors, most recently in 2022. See Securities Exchange Act Release No. 95715 (September 9, 2022), 87 FR 57394 (September 20, 2022) (Final Rule: Inflation Adjustments Under Titles I and III of the JOBS Act).

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<b>Intermediaries</b>				
Requirement for Intermediaries	Intermediaries	Requirements	Reg CF Rule 300(a) – A person acting as an intermediary in a transaction involving the offer or sale of securities in reliance on section 4(a)(6) of the Securities Act of 1933 (“Securities Act”) (15 U.S.C. 77d(a)(6)) must be registered with the SEC as a broker or as a funding portal and must be a member of FINRA.	
Requirements for Intermediaries	Intermediaries	Financial Interests	Reg CF Rule 300(b) – An intermediary is prohibited, with certain specified exceptions, from having a financial interest in an issuer that is offering securities in reliance on section 4(a)(6) of the Securities Act (15 U.S.C. 77d(a)(6)) through the intermediary's platform.	
<b>Measures to reduce risk of fraud</b>				
Requirements for Intermediaries	Measures to Reduce Risk of Fraud	Issuer Compliance	Reg CF Rule 301(a) – An intermediary must have a reasonable basis for believing that an issuer complies with Section 4(a)(6) of the Securities Act and Reg CF. An intermediary is permitted to rely on the representations of the issuer concerning compliance with these requirements unless the intermediary has reason to question the reliability of those representations.	
Requirements for Intermediaries	Measures to Reduce Risk of Fraud	Accurate Records of the Holders of the Securities	Reg CF Rule 301(b) – An intermediary must have a reasonable basis for believing the issuer has established means for keeping accurate records of the holders of the issuer's securities.	
Requirements for Intermediaries	Measures to Reduce Risk of Fraud	Denial of Platform Access to Issuer	Reg CF Rule 301(c)(1) – An intermediary must deny access to its platform to an issuer if the issuer or any of its officers, directors or other specified persons is subject to a disqualification set forth under Reg CF Rule 503.	

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Requirements for Intermediaries	Measures to Reduce Risk of Fraud	Denial of Platform Access to Issuer	Reg CF Rule 301(c)(2)/402(b)(10) – An intermediary must deny access to its platform to an issuer if the intermediary has a reasonable basis for believing that the issuer or the offering presents potential for fraud or otherwise raises investor protection concerns.	
Requirements for Intermediaries	Measures to Reduce Risk of Fraud	Denial of Platform Access to Issuer	Reg CF Rule 301(c)(2) and 402(b)(10) – An intermediary must promptly remove an offering from its platform, cancel the offering, and return funds committed by investors if the intermediary becomes aware of information that the issuer or the offering presents the potential for fraud or otherwise raises investor protection concerns.	
<b>Account Opening</b>				
Requirements for Intermediaries	Account Opening	Opening of Account	Reg CF Rule 302(a)(1) – An intermediary may not accept an investment commitment until the investor has opened an account with the intermediary and the investor consents to electronic delivery.	
Requirements for Intermediaries	Account Opening	Opening of Account	Reg CF Rules 302(a)(2) – An intermediary must provide all information that is required to be provided under Reg CF Rules 300 through 305, including, but not limited to, educational materials, notices and confirmations, by electronic means.	
Requirements for Intermediaries	Account Opening	Educational Materials	Reg CF Rules 302(b)(1) and 302(b)(2) – In connection with establishing an account for an investor, an intermediary must deliver educational materials as specified under the rule to that investor. An intermediary must make the current version of its educational materials available on its platform at all times, as specified in further detail under the rule.	

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Requirements for Intermediaries	Account Opening	Promoters	Reg CF Rule 302(c) – In connection with establishing an account for an investor, an intermediary must inform an investor that any person who promotes an issuer’s offering for compensation, or who is a founder or an employee of an issuer that engages in promotional activities on behalf of the issuer on the intermediary’s platform, must disclose in all communications on the platform the receipt of the compensation and that he or she is engaging in promotional activities.	
Requirements for Intermediaries	Account Opening	Compensation Disclosure	Reg CF Rule 302(d) – When establishing an account for an investor, an intermediary must clearly disclose the manner in which the intermediary is compensated in connection with offerings and sales of securities in reliance on section 4(a)(6) of the Securities Act.	
Arbitration & Mediation	Account Opening	Predispute Arbitration Clause	FP Rule 1200(b) – Any agreement containing a predispute arbitration agreement must comply with the requirements specified under the rule. Any predispute arbitration must be highlighted and must be immediately preceded by the language specified under the rule.	
<b>Requirements with respect to transactions</b>				
Requirements for Intermediaries	Requirements With Respect to Transactions	Issuer Information	Reg CF Rule 303(a) – An intermediary in a transaction involving the offer or sale of securities in reliance on section 4(a)(6) of the Securities Act must make available to the SEC and investors any information required to be provided by the issuer of the securities under Reg CF Rules 201 and 203(a).	

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Requirements for Intermediaries	Requirements With Respect to Transactions	Issuer Information	Reg CF Rules 303(a)(1) – (a)(3) – The information required pursuant to Reg CF 303(a) must: (1) be made publicly available on the intermediary's platform in a manner reasonably permitting a person to save, download or otherwise store the information; (2) be made publicly available on the intermediary's platform for a minimum of 21 days before any securities are sold in the offering; and (3) remain publicly available on the intermediary's platform until the offer and sale of securities is completed or cancelled.	
Requirements for Intermediaries	Requirements With Respect to Transactions	Issuer Information	Reg CF Rule 303(a)(4) – An intermediary may not require any person to establish an account with the intermediary to access the information to access the information required pursuant to Reg CF Rule 303(a).	
Requirements for Intermediaries	Requirements With Respect to Transactions	Investor Qualifications	Reg CF Rule 303(b) – Each time before accepting any investment commitment (including any additional commitment from the same person), the intermediary must meet the requirements specified under Reg CF Rules 303(b)(1) and 303(b)(2).	
Requirements for Intermediaries	Requirements With Respect to Transactions	Investor Qualifications	Reg CF Rule 303(b)(1) – The intermediary must have a reasonable basis for believing the investor satisfies the investment limitations established by section 4(a)(6)(B) of the Securities Act and Reg CF. An intermediary may rely on the investor's representations concerning the investment limitation requirements, unless the intermediary has reason to question the reliability of the representations.	
Requirements for Intermediaries	Requirements With Respect to Transactions	Investor Qualifications	Reg CF Rule 303(b)(2) – Investor Representations – The intermediary must obtain from the investor a representation that the investor has reviewed the intermediary's educational materials, understands that the entire amount of his or her investment may be lost,	

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			and is in a financial condition to bear the loss of the investment. Further, the intermediary must obtain from the investor a questionnaire completed by the investor demonstrating the investor's understanding of the items enumerated under Reg CF Rules 303(b)(2)(ii)(A) through (C).	
Requirements for Intermediaries	Requirements With Respect to Transactions	Communication Channels	Reg CF Rule 303(c) – An intermediary must provide on its platform communication channels by which persons can communicate with one another and with representatives of the issuer about offerings made available on the intermediary's platform. The intermediary must comply with the requirements specified under Reg CF Rules 303(c)(1) through (4).	
Requirements for Intermediaries	Requirements With Respect to Transactions	Notice of Investment Commitment	Reg CF Rule 303(d) – An intermediary must promptly, upon receipt of an investment commitment from an investor, give or send to the investor a notification disclosing: the dollar amount of the investment commitment; the price of securities, if known; the name of the issuer; and the date and time by which investor may cancel the investment commitment.	
Requirements for Intermediaries	Requirements With Respect to Transactions	Maintenance and Transmission of Funds	Reg CF Rule 303(e)(2) – An FP member must direct investors to transmit the money or other consideration directly to a qualified third party that has agreed in writing to hold the funds for the benefit of, and to promptly transmit or return the funds to, the persons entitled thereto pursuant to the Reg CF Rule 303(e)(3).	
Requirements for Intermediaries	Requirements With Respect to Transactions	Maintenance and Transmission of Funds	Reg CF Rule 303(e)(3) – An FP member must promptly direct the qualified third party to: (1) transmit funds to the issuer when the aggregate amount of investment commitments from all investors is equal to or greater than the amount raised and the cancellation period as set forth in Reg CF Rule 304 has elapsed, provided that	

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			<p>in no event may the FP member direct this transmission of funds less than 21 days after the date on which the intermediary makes publicly available on its platform the information required to be provided by the issuer; (2) return funds to an investor when an investment commitment has been cancelled in accordance with Reg CF Rule 304 (including for failure to obtain effective reconfirmation as required under Rule 304(c)); and (3) return funds to an investor when an issuer does not complete the offering.</p>	
Requirements for Intermediaries	Requirements With Respect to Transactions	Confirmation of Transaction	Reg CF Rule 303(f)(1) – An intermediary must, at or before the completion of a transaction in a security in reliance on section 4(a)(6) of the Securities Act, give or send each investor a notification disclosing the items specified under Reg CF Rules 303(f)(1)(i) through (vi).	
<b>Completion of Offerings, Cancellations and Reconfirmations</b>				
Requirements for Intermediaries	Completion of Offerings, Cancellations and Reconfirmations	Generally	Reg CF Rule 304(a) – An investor may cancel an investment commitment for any reason until 48 hours prior to the deadline identified in the issuer’s offering materials. During the 48 hours prior to such deadline, an investment commitment may not be cancelled except as provided in Reg CF Rule 304(c).	
Requirements for Intermediaries	Completion of Offerings, Cancellations and Reconfirmations	Early Completion of Offering	Reg CF Rule 304(b) – If an issuer reaches the target offering amount prior to the deadline identified in its offering materials, the issuer may close the offering on a date earlier than the deadline identified in its offering materials, provided the requirements set forth in Reg CF Rules 304(b)(1) through (4) are met.	



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Requirements for Intermediaries	Completion of Offerings, Cancellations and Reconfirmations	Cancellations and Reconfirmations	Reg CF Rule 304(c) – An intermediary must comply with the requirements of Reg CF Rule 304(c) with respect to cancellations and reconfirmations of investors’ investment commitments based on material changes to the offering or the information provided by the issuer.	
Requirements for Intermediaries	Requirements With Respect to Transactions	Return of Funds if Offering not Completed	Reg CF Rule 304(d) – Procedures for the return of funds if an offering through the intermediary is not completed. If an issuer does not complete an offering, an intermediary must within five business days comply with the requirements of Reg CF Rule 304(d).	
Requirements for Intermediaries	Payments to Third Parties	Prohibition on Payments	Reg CF Rule 305(a) – An intermediary may not compensate any person for providing the intermediary with the personally identifiable information of any investor or potential investor in securities offered and sold in reliance on section 4(a)(6) of the Securities Act. For purposes of this requirement, “personally identifiable information” is defined under paragraph (b) of Reg CF Rule 305.	
Requirements for Intermediaries	Consumer Financial Information and Safeguarding Personal Information	Regulation S-P	Reg CF Rule 403(b) & 17 CFR 248 Subpart A – An FP member must comply with the requirements of Regulation S-P (Privacy of Consumer Financial Information and Safeguarding Personal Information).	
Requirements for Intermediaries	Consumer Financial Information and Safeguarding Personal Information	Regulation S-AM	Reg CF Rule 403(b) & 17 CFR 248 Subpart B (Reg S-AM) – An FP member must comply with the requirements of Regulation S-AM (Limitations on Affiliate Marketing).	
Requirements for Intermediaries	Consumer Financial Information and Safeguarding Personal Information	Regulation S-ID	Reg CF Rule 403(b) & 17 CFR 248 Subpart C – An FP member must comply with the requirements of Regulation S-ID (Identity Theft Red Flags).	

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<b>FP Conduct</b>				
FP Rules	FP Conduct	Standards of Commercial Honor and Principles of Trade	FP Rule 200(a) – An FP member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.	
FP Rules	FP Conduct	Use of Manipulative, Deceptive or Other Fraudulent Devices	FP Rule 200(b) – No FP member shall effect any transaction in, or induce the purchase or sale of, any security by means of, or by aiding or abetting, any manipulative, deceptive or other fraudulent device or contrivance.	
FP Rules	FP Conduct	Communications with the Public	FP Rule 200(c) – All FP member communications must comply with the content standards set forth in FP Rule Rule 200(c).	
FP Rules	FP Compliance	Executive Representative	FP Rule 300(b) – Each FP member must designate to FINRA, for purposes of Article IV, Section 3 of the FINRA By-Laws, an executive representative. Each FP member must update its executive representative designation in the manner prescribed by FP Rule 300(d).	
FP Rules	FP Compliance	Reporting Requirements	FP Rule 300(c) – Each FP member shall promptly report to FINRA, within 30 calendar days, through such means as FINRA may specify, after the member knows or should have known of the existence of any of the items specified under FP Rules 300(c)(1)(A) through (B).	
FP Rules	FP Compliance	Contact Information Requirements	FP Rule 300(d)(1) – Each FP member must report to FINRA all contact information required by FINRA through such means as FINRA may specify.	
FP Rules	FP Compliance	Contact Information Requirements	FP Rule 300(d)(2) – Each FP member must promptly update its required contact information, but in any event no later than 30 days following any change in such information.	

Section	Topic	Items Required to be Addressed	References(s)	Date Last Reviewed?
FP Rules	FP Compliance	Contact Information Requirements	FP Rule 300(d)(3) – Each FP member must comply with any FINRA request for such information promptly, but in any event not later than 15 days following the request, or such longer period as may be agreed to by FINRA staff.	
FP Rules	FP Compliance	Statement of Gross Revenue	FP Rule 300(e) – Each FP member must each year report to FINRA, in the manner prescribed by FINRA, the member's gross revenue on Form FP-Statement of Revenue, no later than 60 calendar days following each calendar year-end. The statement of gross revenue must be prepared in accordance with U.S. Generally Accepted Accounting Principles.	
FP Rules	FP Compliance	Record of Associated Persons	FP Rule 300(f) – Each FP member must make and keep current a record listing every associated person of the funding portal member that shows, for each such associated person, every office of the funding portal member where the associated person regularly conducts any business for the FP member, and any registration number, if any, to be prescribed by FINRA, and every identification number or code assigned to the associated person by the FP member. An FP member must preserve all records made pursuant to this rule for five years, the first two in an easily accessible place.	
<b>Permitted and Prohibited Activities</b>				
FP Regulation	Conditional Safe Harbor	Prohibited Activities	Reg CF Rule 402(a) – An FP member acting as an intermediary in a transaction involving the offer or sale of securities in reliance on section 4(a)(6) of the Securities Act may not: offer investment advice or recommendations; solicit purchases, sales, or offers to buy the securities offered or displayed on its platform or portal; compensate employees, agents, or other persons for such solicitation or based on the sale of securities displayed or referenced on its platform or portal; hold, manage, possess, or otherwise handle investor funds or securities; or engage in such other activities as the Commission, by rule, determines appropriate.	

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FP Regulation	Conditional Safe Harbor	Permitted Activities	Reg CF Rule 402(b) – Procedures for how the FP will comply with the requirements of Securities Rule 402(b)(1) - (b)(3). An FP member is permitted to engage in specified activities pursuant to paragraph (b) of Reg CF Rule 402, subject to the requirements set forth under that rule.	
FP Regulation	Recordkeeping	Records	Reg CF Rule 404(a) – An FP member must make and preserve the records specified under paragraph (a) of the rule for five years, the first two years in an easily accessible place.	
FP Regulation	Recordkeeping	Organizational Documents	Reg CF Rule 404(b) – An FP member must make and preserve during the operation of the FP member and of any successor funding portal, all organizational documents relating to the FP member, including but not limited to, partnership agreements, articles of incorporation or charter, minute books and stock certificate books (or other similar type documents).	
FP Regulation	Recordkeeping	Format	Reg CF Rule 404(c) – The records required to be maintained and preserved pursuant to paragraph (a) under Reg CF Rule 404 must be produced, reproduced, and maintained in the original, non-alterable format in which they were created or as permitted under SEA Rule 17a-4(f).	
Section	Topic	Items Required to be Addressed	References(s)	Date Last Reviewed?
FP Regulation	Recordkeeping	Third Parties	Reg CF Rule 404(d) – The records required to be made and preserved pursuant to Reg CF Rule 404 may be prepared or maintained by a third party on behalf of an FP member. An agreement with a third party shall not relieve an FP member from the responsibility to prepare and maintain records as specified in this rule. An FP member must file with FINRA a written undertaking in a form acceptable to FINRA, signed by a duly authorized person of the third party, stating in effect that such records are the property of the FP member and will be surrendered promptly on request of the FP member. The undertaking must include the provision specified under paragraph (d) of Reg CF Rule 404.	

FP Regulation	Recordkeeping	Review of Records	Reg CF Rule 404(e) – All records of an FP member are subject at any time, or from time to time, to reasonable periodic, special, or other examination by the representatives of the Commission and FINRA. Every FP member shall furnish promptly to the Commission, its representatives, and FINRA true, correct, complete and current copies of such records of the FP member that are requested by the representatives of the Commission and FINRA.	
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**Additional Section for Nonresident FPs**

This section is for nonresident FPs. Under Reg CF, a nonresident FP is an FP incorporated in or organized under the laws of a jurisdiction outside of the United States or its territories or having its principal place of business in any place not in the United States or its territories.

Section	Topic	Items Required to be Addressed	References(s)	Date Last Reviewed?
FP Regulation	Nonresident FPs	Change of agent or address of agent for service of process; recordkeeping	Reg CF Rule 400(f)(2) – Any change of a nonresident FP’s agent for service of process, or change of the name or address of the agent, must be communicated promptly to the Commission through amendment of the Schedule C to Form Funding Portal. If the agent is discharged or otherwise cannot accept service of process, a successor must be promptly appointed. The nonresident FP must maintain, as part of its books and records, the written consent and power of attorney appointing its agent for service of process for at least three years after the agreement is terminated.	
FP Regulation	Nonresident FPs	Access to Books and Records; inspections and examinations	Reg CF Rule 400(f)(3) – Any nonresident FP applying for registration pursuant to Reg CF must certify on Schedule C to Form Funding Portal that the nonresident FP can, as a matter of law, and will provide the SEC and FINRA prompt access to its books and records and submit to onsite inspection and examination. Further, the nonresident FP must provide an opinion of counsel. The nonresident FP must re-certify, and provide an updated opinion of counsel, within 90 days after any changes in the legal or regulatory framework that would impact its ability to provide prompt access to its books and records or would impact the SEC’s or FINRA’s ability to inspect and examine the nonresident FP.	