

<b>MODULE</b>	<b>CFP: Crowdfunding platform operators</b>
<b>CHAPTER</b>	<b>CFP-1: Operating Requirements</b>

## CFP-1.4 Client money

**CFP-1.4.1** Crowdfunding platform operators must hold money, securities or other assets belonging to clients, separate from their own. Client money is any money held by the crowdfunding platform operator received from either investors or lenders, or money received from issuers or borrowers for payment or repayment to investors or lenders.

**CFP-1.4.2** Crowdfunding platform operators must ensure that any client money received is deposited directly into the client money account.

**CFP-1.4.3** The client money must be safeguarded in one of the following methods:

- (a) Holding the client money in a trust or escrow account or an account subject to a fiduciary arrangement with a retail bank; or
- (b) Obtaining insurance coverage policy from a regulated insurance firm which is fully liable to the investor or lender for the client money; or
- (c) Obtaining a guarantee from a bank for the amount of the client money.

**CFP-1.4.4** Where a crowdfunding platform operator safeguards client money under a fiduciary arrangement, it must be deposited in a designated fiduciary account maintained with a bank, under an arrangement between the crowdfunding platform operator, the bank and third party who takes responsibility for verifying the fund movements.

**CFP-1.4.5** Crowdfunding platform operators that safeguard client money under a fiduciary arrangement must appoint a third party who is either:

- (a) An independent CBB licensed fund administrator; or
- (b) An independent external auditor; or
- (c) A CBB licensed financial institution authorised to undertake trust or escrow services.

**CFP-1.4.6** The crowdfunding platform operator:

- (a) Must, before entering into the fiduciary arrangement, assess and satisfy itself of the suitability of both the bank and the third party;
- (b) Must, before depositing the client money:
  - i. Give written notice to the bank and third party and obtain an acknowledgment that:

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## CFP-1.4 Client money (continued)

- a. All client money will be held under fiduciary arrangement and the bank shall have no right of set-off; and
- b. The account is designated and maintained separately from any other account of the crowdfunding platform operator.
- ii. Disclose in writing to each investor or lender:
  - a. That their client money will be held under fiduciary arrangement and verified by the third party;
  - b. That client money will not be commingled with the crowdfunding platform operator's own funds; and
  - c. The consequences in the event of insolvency of the bank or the third party.

- CFP-1.4.7 For the purpose of Paragraphs CFP-1.4.4 and CFP-1.4.5, controls and restrictions that would be subject to the fiduciary arrangements and for the purpose of verifications by the third party may include but not limited to the following:
- (a) The third party should act as an additional signatory for the purpose of verification of transactions;
  - (b) No right of set-off or netting against liabilities to the bank is permitted;
  - (c) Fund movements shall only be made to identified parties, being issuers, borrowers, investors, or lenders;
  - (d) A separate sub-account shall be maintained for each crowdfunding offer;
  - (e) Whitelisting shall be applied to each investor or lender and the crowdfunding borrower or issuer bank account;
  - (f) Cash and cheque payments are prohibited; and
  - (g) The third party should verify documentation supporting fund movements, sub-account setup, and whitelisting for the purpose of transaction verification.

### CFP 1.4.8

Where a crowdfunding platform operator chooses to safeguard client money using a guarantee from a bank or an insurance policy from an insurance firm, it must meet the following:

- (a) Before obtaining a guarantee or insurance cover from the bank or insurance firm:
  - i. Assess, and satisfy itself of, the suitability of the bank or insurance firm as the case maybe with respect to the giving of the guarantee or providing the insurance cover; and
  - ii. Give written notice to the bank or insurance firm and obtain an acknowledgment that the guarantee or insurance cover is being obtained by the crowdfunding platform operator for the purpose of complying with Paragraph CFP-1.4.3.

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## CFP-1.4 Client money (continued)

- (b) Ensure that:
  - i. The guarantee states that in the event of the insolvency of the crowdfunding platform operator, the bank assumes a primary liability to pay a sum equal to the amount of the client money held by the crowdfunding platform operator at the end of the business day immediately preceding the date the crowdfunding platform operator becomes insolvent and, in case of an insurance cover it is considered claimed at the point of insolvency of the crowdfunding platform operator; and
  - ii. There is no other condition or restriction on the immediate paying out of money by the bank or insurance firm to a separate account held by the crowdfunding platform operator, in the event of the insolvency of crowdfunding platform operator;
- (c) Disclose in writing to the customer that the client money is being safeguarded by a guarantee or insurance cover given by the bank or insurance firm for the client money; and
- (d) Assess, and satisfy itself of, the suitability of the bank or insurance firm, as the case maybe, on an annual basis subsequent to obtaining the guarantee or insurance.
- (e) Crowdfunding platform operators must retain adequate records in relation to the basis on which the Crowdfunding platform operators satisfied itself of the suitability of the bank or insurance firm for at least five years.

### CFP-1.4.9

Crowdfunding platform operators must appoint their external auditors or independent third-party audit firm to perform an audit of their safeguarding arrangements at least twice every calendar year. The objectives of the audit must include:

- (a) Verify compliance with this Chapter and assess the adequacy and effectiveness of the safeguarding systems and controls in place;
- (b) The licensee maintains adequate operational arrangements to ensure that client money is at all times properly segregated, reconciled, and protected against misuse, fraud, or negligence;
- (c) Client assets are not used for purposes other than for crowdfunding arrangements; and
- (d) Fraud risks are adequately controlled and mitigated.

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## CFP-1.4 Client money (continued)

**CFP-1.4.10** Funds raised must be released to the issuer within one business day of the completion of fund raising. In all cases, client money may only be released if:

- (a) Verified by the third party appointed under the fiduciary arrangement; and
- (b) The criteria for raising the funds has been met i.e. the minimum amount required in the offering statements has been met and there has not been any material adverse change to the crowdfunding offer.

**CFP-1.4.11** Crowdfunding platform operators must have mechanisms in place to refund the money to lenders/investors within 5 working days if:

- (a) Due to any reason the crowdfunding offer is withdrawn by the platform;
- (b) The subscription amount is less than the minimum required in accordance with the offering statement; or
- (c) The offer is oversubscribed, and the platform does not allow oversubscription.

**CFP-1.4.12** A licensee must inform the CBB in advance of any material change in the measures taken for safeguarding of client money.

**CFP-1.4.13** A licensee must comply with the following requirements with respect to the safeguarding and management of client money:

- (a) Maintain adequate segregation of duties in relation to the operation of client money accounts;
- (b) Establish and maintain internal controls and systems to ensure the weekly reconciliation of client money balances held with the bank against the corresponding client ledgers; and
- (c) Designate a member of senior management as the responsible person for the oversight and operation of client money accounts.

**CFP-1.4.14** The licensee must inform the CBB immediately if there are any discrepancies in the reconciliation of client money balance as per the licensee's records, and the balances as per the bank statements, that remain unresolved for more than 1 month.