

# Peer-to-Peer Finance Association Operating Principles

## Introduction

1. These Operating Principles set out the standards of business conduct that apply to all members of the P2PFA. They align with, and in some areas supplement, the current FCA requirements for 'loan-based crowdfunding' (peer-to-peer lending).
2. These Operating Principles are subject to review by the P2PFA Board from time-to-time.

## High-Level Principles

3. P2PFA members must comply with the following high-level principles in all their undertakings:
  - a) operate their business with technical and professional competence;
  - b) run their business with integrity;
  - c) transact with customers in an honest and fair way;
  - d) be transparent about how their platform works;
  - e) promote and maintain high standards of business practice; and
  - f) commit to provide good value financial service products to retail consumers

## Specific Operating Principles

### Clarity and Transparency

4. All marketing and promotional material must be clear, balanced, fair and not misleading and set out both the risks and benefits of peer-to-peer lending. Platforms must not claim that investors' returns are 'guaranteed'<sup>1</sup>.
5. Platforms should set out in a clear and balanced way the information that enables customers and prospective customers, whether lenders or borrowers, to make an informed decision<sup>1</sup>.

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<sup>1</sup>Relevant FCA Rules; Conduct of Business (COBS) Source book: Rule 4.2.1 and Consumer Credit (CONC) source book: 3.3.

6. P2PFA members are required to publish the following information on publically available pages of their website (apart from 6(c) which platforms may make available to registered customers or members only):

- a) **Bad debt rates:** Platforms must disclose their definition of bad debt and the last five years credit performance as set out in the following table, unless an exception due to the operating model is agreed:

	2011	2012	2013	2014	2015	2016
<b>Actual arrears (&gt; 45 days)</b>						
Total outstanding loan balances on loans more than 45 days late but not defaulted, as a percentage of amount lent in the calendar year.						
<b>Actual lifetime default rate</b>						
Total bad debt (defaults less actual recoveries) over the lifetime of the loans as a percentage of amount lent in a calendar year (NB this is not an annualised number).						
<b>Expected lifetime default rate</b>						
Expected bad debt (expected defaults less recoveries) over the lifetime of the loans as a percentage of amount lent in a calendar year (NB this is not an annualised number). Estimated at origination of the loans.						
<b>Projected lifetime default rate</b>						
Latest bad debt projection for each yearly vintage using actuals from the vintage to date plus projected future losses.						
<b>Realised %</b>						
Maturity of each yearly vintage, defined as principal repaid as a percentage of amount lent in a calendar year (excluding bad debts)						
<b>Actual bad debt fund usage</b>						
For platforms using reserve funds to protect investors against losses: Bad debt fund usage (total payments made by reserve fund (less recoveries) in relation to each annual cohort, as a percentage of total contributions to the reserve fund from those loans. Excludes bank interest income and other administrative fees and charges.						

**b) Returns performance:** Platforms must disclose their methodology for calculating returns and show the last five years historic returns (in line FCA Financial Promotions<sup>2</sup>) as set out in the following table, unless an exception due to the operating model is agreed:

	Origination year					
	2011	2012	2013	2014	2015	2016
Amount lent (£)						
Actual annual return to date of loans in origination year (% , after fees and bad debts)						
Estimated annual return at origination (% , after fees and bad debts)						
Realised % <sup>3</sup> (principal repaid excluding bad debts)						

For platforms with a fund to cover bad debts the following additional fields to be added:

	Origination year					
	2011	2012	2013	2014	2015	2016
Actual annual investor return to date (% , after fees and bad debt fund compensation)						
Bad debt fund usage (% , bad debts in year as a % of fund raised in year)						

**c) Full loanbook availability:** Platforms should publish full data on their loanbook. This is a loan by loan view of the portfolio of loans originated through the platform and must include but not be limited to: loan ID, borrower ID (or linked loans), date accepted, loan amount, gross rate, term, security, use of funds (inc lending for money lenders), sector, country, status (e.g. late, bad debt), repayment type (e.g. fully amortising). Loans shown in the loanbook should be for loan contracts that the platform's lenders are directly lending to (as opposed to loans that a borrower (money lender) may make and held as

<sup>2</sup> COBS 4.6.2.

<sup>3</sup> 'Realised %' is not applicable for short-term lenders where average duration < 90 days.

security). The loanbook data must be updated at least monthly and consistent with the other data requirements.

7 Platform information for lenders and prospective lenders should include:

- (a) expected returns net of fees and defaults and the circumstance under which this rate is achievable;
- (b) details of any fees and charges that may be payable;
- (c) a clear warning that capital is at risk and that there is no FSCS cover;
- (d) where lender money will be lent in general terms (e.g consumer loans, SME loans, property loans, UK/non UK loans, or if mixed how the loan book is constituted);
- (e) how money is treated after a lender transfers it to the platform;
- (f) how any 'automatic' function works such as 'auto-lend/auto-bid/auto-reinvest'
- (g) the typical time taken to lend out money and the ease and process for withdrawing money;
- (h) the operation of any 'provision fund' and the risks involved;
- (i) the proportion of individual consumer funds deployed in the loan book (i.e money that's not from institutions or platform's own money);
- (j) an overview of the checks the platform performs on borrowers and a clear explanation of how risk rates are calculated;
- (k) any conflict of interest in any of the loans and how conflicts of interest are managed;
- (l) any minimum level of investment and whether non UK lenders are accepted; and
- (m) the applicable tax treatment.

If any of these do not apply to the circumstances of the platform it will explain and provide such information as is relevant and material to a lender's informed decision about whether to invest.

8 Information for borrowers should be equivalent to that required by FCA regulation and in particular include;

- (a) details of any specific fees and charges and interest rate payable;
- (b) information on whether the loan can be repaid early and if so on what terms;

If any of these do not apply to the circumstances of the platform it will explain and provide such information as appears relevant and material to a borrower's

informed decision about whether to borrow.

- 9 Publically available platform information must include:
- (a) details of the full complaints procedure;
  - (b) details of the senior management team;
  - (c) the legal form of the business, location of head office and date of launch;
  - (d) details of the arrangements in place in case of business failure; and
  - (e) any material changes to their business which impacts customers.

## Risk management by the platform.

- 10 Platforms must demonstrate compliance with regulatory requirements or, if unregulated, should adopt similar arrangements that effect equivalent consumer protection.
- 11 **Credit risk management.** Members shall operate a prudent and robust policy to manage credit risk and undertake sufficient assessment to satisfy themselves that those who borrow can properly afford to do so. The objective should be to ensure default rates remain broadly within published estimates. Each member should be able to explain their credit risk management approach coherently to a customer. 'Soft' credit risk searches should be performed on prospective consumer borrowers<sup>4</sup>.
- 12 **Anti-money laundering and fraud prevention.** Members must comply with applicable anti-money laundering regulations and such other anti-fraud measures as it reasonably considers appropriate and in line with best practice, such as membership of a fraud prevention service. Non-FCA regulated platforms should ensure their AML/Fraud prevention systems are independently audited each year<sup>5</sup>.
- 13 **Client money management.** Members shall segregate their customers' funds from member's own funds and company assets, in a segregated bank account, which is designated to show that it is an account held for the purpose of safeguarding customers' funds and used only for holding those funds (Segregated Account) in accordance with applicable FCA client assets and money requirements or equivalent. This segregated bank account should be audited annually by the

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<sup>4</sup> Relevant FCA Rule; Senior management arrangements, systems & controls (SYSC) sourcebook: Rule 7.1 'Risk control'.

<sup>5</sup> Relevant FCA Rules; SYSC 3.2.6 'Systems and controls in relation to compliance', 'financial crime' and 'money laundering' and SYSC 6.3.1 'Financial crime'.

company's external auditors<sup>6</sup>.

- 14 **IT systems and controls.** Members must ensure that their overall information technology (IT) strategies and systems are secure, reliable and proportionate to the nature, scale and complexity of their business and are sufficiently robust and fit for purpose. Members should operate systems that minimise the risk of IT failures or data theft<sup>7</sup>.
- 15 **Records and documents management.** Members should retain appropriate records for regulatory reporting purposes, responsible management of the business and fair treatment of customers. Members must safeguard and protect the privacy of customer information in line with data protection requirements<sup>8</sup>.
- 16 **Bad debt recovery.** Bad debt recovery should be undertaken in accordance with acceptable industry wide standards of responsible business practice.
- 17 **Orderly wind-down.** Members must make arrangements to ensure the orderly administration of the business and run-off of its customers' contracts in the event the member or the member's platform ceases to operate. Such arrangements should be in line with regulatory requirements<sup>9</sup> and either a suitably-governed entity established by the firm to run down the loanbook or a reputable third party that has;
  - sufficient manpower to administer the contracts in run off;
  - a suitable collection and payment process for repayments;
  - a suitable disbursement process for net proceeds due to lenders;
  - the ability for customers to communicate with the operator;
  - maintenance of requisite licence approvals;
  - compliance with applicable law, regulations; and
  - allowance for office and sundry expenses.

## Governance and Controls

- 18 The governance of member businesses should comply with established principles

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<sup>6</sup> Relevant FCA rule: 'Client assets' (CASS) sourcebook: Rule 7.13 'Segregation of client money'.

<sup>7</sup> Relevant FCA Rule; SYSC 3.1.1 'Systems and Controls'.

<sup>8</sup> Relevant FCA Rules; SYSC 9.1 'General rules on record keeping' and Conduct of Business (COBS) sourcebook 9.5 'record keeping and retention period for suitability records'.

<sup>9</sup> Relevant FCA rules; Supervision (SUP) sourcebook: SUP 6 Annex 4 'Additional guidance for a firm winding down (running off) its business'.

of corporate governance in a proportionate way<sup>10</sup>.

- 19 Members should designate senior managers who have accountability for managing key risk areas and ensure the fair treatment of customers<sup>11</sup>.
- 20 Each member should have at least one director that they are prepared to nominate to the Financial Conduct Authority as the member's "Approved Person"<sup>12</sup>.
- 21 Members should not unduly discriminate between any category of lender and, in particular, should not operate in any way that disadvantages retail investors. Members should be clear and transparent if certain loans are not available to individual consumers e.g higher risk loans<sup>13</sup>.
- 22 Members may lend their own money on their platform, provided that any conflict of interest is effectively managed<sup>14</sup>.
- 23 Members should not borrow or raise funds through their p2p lending websites or platforms. Shareholders and employees can lend and borrow on an arm's length commercial basis.
- 24 Members will maintain capital reserves equivalent to those specified by regulation and audited annually by a reputable firm of accountants<sup>15</sup>.
- 25 Members should have a clear complaints handling policy that seeks to resolve customer complaints or expressions of dissatisfaction about the member's activities in a fair and timely way. Members must inform its customers about its complaints policy and legal right to refer a complaint to the Financial Ombudsman Service<sup>16</sup>.

## Providing data to the P2PFA

- 26 Quarterly lending data must be submitted to the P2PFA secretariat by the 10<sup>th</sup> of the month after the end of the quarter. The table below sets out the required data:

Term	Definition
<i>Cumulative lending</i>	Total amount lent to individuals/firms since

<sup>10</sup> Relevant FCA rule; FCA principle 3 'Management and control'.

<sup>11</sup> Relevant FCA rules: Conduct of Business (COBS) sourcebook: Rule 4.2.1 and consumer credit (CONC) sourcebook 3.3.

<sup>12</sup> Relevant FCA rules: FCA Principle 3 and SYSC 2.1. Appointment of responsibility'.

<sup>13</sup> Relevant FCA rules: FCA principle 8 'Conflicts of interest and Principle 6 'Treating customers fairly'.

<sup>14</sup> Relevant FCA rule: FCA Principle 8 'Conflicts of interest'.

<sup>15</sup> Relevant FCA rule: General Prudential (GENPRU) sourcebook: Rule 2.2 'Capital resource'.

<sup>16</sup> Relevant FCA rule: Dispute resolution: complaints (DISP) sourcebook: Rule 1.3.1 'Complaints handling rules'.

	platform was established at end of period
<i>Outstanding loan book</i>	Total amount of principal at end of period.
<i>New lending</i>	Amount originated in period
<i>Capital repaid</i>	Capital repaid in the period
<i>Net Lending</i>	New lending- Capital repaid
<i>Number of current lenders</i>	Number of lenders that have more than £1 lent out at end of quarter
<i>Number of current borrowers</i>	Number of borrowers with a loan as at the end of the quarter

- 27 Members should provide confidential data to the P2PFA secretariat on customer complaints by number, type and outcome on a quarterly basis.

## Waivers and Disclaimer

- 28 A firm may seek a waiver from any of the specific operating principles, but the member will need to demonstrate that their alternative approach is consistent with the high level principles. Waivers are subject to the approval of the independent directors and will be published unless the independent directors agree otherwise.
- 29 These Operating Principles were updated June 2015 and are not intended to confer a benefit on any third party and no person other than a party may enforce the terms of these Operating Principles by virtue of the Contracts (Rights of Third Parties) Act 1999 or any other such law or regulation.