

# 2026 Marketing Rule FAQ **Compliance** **Checklist**

**Rule 206(4)-1**

**Post January 2026 FAQ Updates**

Use this internally to validate whether your firm's marketing policies, supervision, and records reflect current SEC staff guidance.

## SECTION 1 - Policy & Supervisory Framework

- Has your Marketing Rule policy been reviewed since January 15, 2026?
- Does the policy reflect the latest FAQ guidance on:
  - Model vs. actual fees in net performance?
  - Conditional flexibility around disqualifying events?
- Have any “bright-line” interpretations (e.g., mandatory model fee usage in all scenarios) been revised to reflect a facts-and-circumstances analysis?
- Is supervisory responsibility for marketing clearly assigned?

## SECTION 2 - Net Performance & Fee Presentation

### A. Identification

- Have you identified all advertisements presenting net performance?
- For each, have you determined whether:
  - Historical fees differ from anticipated future fees?
  - Model fees were used?
  - Actual fees were used?

### B. Documentation of Fee Methodology

If actual fees are used and future fees may be higher:

- Have you documented why actual fees were used instead of a model fee?
- Have you documented how the impact of higher anticipated fees was illustrated?
- Is the disclosure specific to the intended audience?

### C. General Prohibitions Review

- Has each performance advertisement been reviewed under the general prohibitions standard (not misleading, fair and balanced)?
- Is there written documentation of that review?
- Could you explain, in plain terms, why the presentation is not materially misleading?

## D. Books & Records

For a sample net performance ad, can you retrieve:

- Performance calculations
- Fee assumptions used
- Disclosure language
- Evidence of supervisory approval
- Date of first use
- Supporting workpapers

If not, recordkeeping controls require improvement.

## SECTION 3 - Testimonials & Endorsements

### A. Promoter Identification

- Do you maintain a current list of all compensated promoters?
- Is disciplinary history documented for each?

### B. Disqualifying Events Analysis

For any promoter with a relevant disciplinary history:

- Have you documented a facts-and-circumstances analysis of eligibility?
- Have you identified whether enhanced disclosures are required?
- Are required disclosures included in each applicable advertisement?
- Is there documentation showing how long enhanced disclosures must remain in effect?

### C. Supervisory Controls

- Is promoter eligibility verified prior to approval of advertisements?
- Are advertisements prevented from approval if required disclosures are missing?
- Is the promoter's status periodically re-verified?



## SECTION 4 - Advertising Review Process

- Is every advertisement reviewed prior to first use?
- Is reviewer identity documented?
- Are review comments retained?
- Is final approval documented and timestamped?
- Are changes tracked between draft and final version?

## SECTION 5 - Training & Awareness

- Have compliance and marketing personnel been trained on the January 2026 FAQ updates?
- Do reviewers understand:
  - The difference between model and actual fee flexibility?
  - That flexibility increases documentation requirements?
  - That general prohibitions always apply?

## SECTION 6 - Examination Readiness Simulation

Select:

1 net performance advertisement

1 compensated testimonial advertisement

Attempt to produce a complete supervisory file for each within 15 minutes.

The file should include:

- Calculation methodology
- Disclosure language used
- Promoter eligibility documentation (if applicable)
- Supervisory approval record
- Evidence supporting conclusions reached

If retrieval is fragmented across email, spreadsheets, and shared drives, supervisory controls may not be defensible under examination.