



## SUMMARY ON FAQs ISSUED BY RBI ON DIGITAL LENDING GUIDELINES

### A) Background

1. The Reserve Bank of India (“RBI”) had constituted a working group (“WG”) to address the concerns pertaining to digital lending. The WG accordingly, submitted a report on digital lending including lending through online platforms and mobile applications which was published by the RBI on November 18, 2021.
2. On August 10, 2022, the RBI issued a press release on implementation of the recommendations of the WG. Through the press release, RBI sought to implement the recommendations and suggestions of the WG on digital lending. Further, the RBI also issued the guidelines on digital lending vide *Circular DOR.CRE.REC.66/21.07.001/2022-23 dated September 02, 2022* (“Guidelines”).
3. These Guidelines however contained some ambiguities and hence RBI, in an endeavor to address those ambiguities, has issued frequently asked questions (“FAQs”) on February 14, 2023.

### B) Summary on FAQs

Sr. No.	Grey Areas	Clarification by RBI through FAQs
1.	Does the entire lending transaction need to be done digitally to classify as digital lending?	<ul style="list-style-type: none"><li>• The entire life cycle of a loan (customer acquisition, credit assessment, loan approval, disbursement, recovery, and associated customer service) does not have to be done digitally for the transaction to fall under the definition of digital lending.</li><li>• Even if some of the aspects are done in physical mode, the transaction will still be seen as digital lending because the Guidelines recognize the loan provided ‘largely by use of seamless digital technologies’.</li><li>• Therefore, even if some physical interface with customer is present, the lenders will not be able to bypass the digital lending regulations / Guidelines.</li></ul>
2.	Whether all service providers whom regulated entities (RE) has outsourced some of its credit intermediation activities be considered as Lending Service Provider (LSP)?	<ul style="list-style-type: none"><li>• No, not all service providers affiliated with a RE for credit intermediation activities will be considered/designated as a LSP.</li><li>• As per the definition of LSP under the Guidelines, only those service providers who are engaged in ‘digital lending’ transactions shall be designated as LSP.</li></ul>

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3.	Whether all LSPs need to appoint a Grievance Redressal Officers?	The Guidelines require only the LSPs which have an interface with the borrowers to appoint a nodal Grievance Redressal Officer to deal with digital lending-related complaints. Furthermore, the REs shall remain responsible for ensuring resolution of complaints arising out of actions of all LSPs engaged by them.
4.	Are EMI programme(s) on credit cards covered by the Guidelines?	<ul style="list-style-type: none"> <li>• EMI programme(s) on credit card will not be covered by the Guidelines since they already fall under the Master Direction on Credit Card and Debit Card – Issuance and Conduct, 2022’.</li> <li>• However, other loan products offered on credit cards which are not regulated by the aforesaid Master Direction fall shall be governed by the Guidelines.</li> <li>• Further, the Guidelines will also be applicable to all loans offered on debit card, including EMI programmes.</li> <li>• It is to be noted that the card-issuers shall ensure complete transparency in the conversion of credit card transactions to Equated Monthly Instalments (EMIs) by clearly indicating the principal, interest and upfront discount provided by the merchant/card-issuer (to make it no cost), prior to the conversion. The same shall also be separately indicated in the credit card bill/statement. EMI conversion with interest component shall not be camouflaged as zero-interest/no-cost EMI.</li> </ul>
5.	How to disclose Annualised Percentage Rate (APR) in case of floating rate loans?	The Guidelines state that the all-inclusive cost of digital loans in the form of APR should be disclosed to the borrowers upfront. But for floating rate loans, the interest rate changes over time to which the RBI has clarified that revised APR may be disclosed to the customer via SMS/ e-mail each time the revised APR becomes applicable.
6.	Is it mandatory to include insurance charges in the calculation of APR?	The insurance charges shall be included in the computation of APR only for the insurance which is linked/integrated in loan products as these charges are intrinsic to the nature of such digital loans. In case where the premium is collected and subsequently paid to the insurance company if the borrower avails of the insurance, it shall not form part of the APR for the loan, since it is not connected with the loan.

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7.	Can a third party control the flow of funds in a lending transaction between the bank accounts of borrower and lender?	The flow of money (viz. loan servicing, repayment, disbursement, etc.) must be executed only through the bank accounts of the borrower and lender. A third party (including LSP) cannot, directly or indirectly, control the flow of funds in a lending transaction between the bank accounts of the borrower and lender.
8.	Can the services of Payment Aggregators (PA) be used for loan disbursals and repayments?	<ul style="list-style-type: none"> <li>• LSP should not be involved in handling of funds flowing from the lender to the borrower or vice versa.</li> <li>• While entities offering only PA services shall remain out of the ambit of Guidelines, any PA also performing the role of an LSP must comply with the Guidelines. This would mean that even PAs could be classified as LSP in case they are providing such services to the RE.</li> </ul>
9.	In case of delinquent loans, recovery/ servicing of digital loans may be undertaken by a recovery agent collecting cash from borrowers. Will such cases be exempted from the requirement of direct repayment of loan in the RE's bank account?	<ul style="list-style-type: none"> <li>• In case of delinquent loans, REs can deploy physical interface to recover loans in cash, where absolutely necessary. In order to afford operational flexibility to REs, such transactions are exempted from the requirement of direct repayment of loan in the RE's bank account.</li> <li>• However, any recovery by cash should be duly reflected in the borrower's account and REs shall ensure that any fees, charges, etc., payable to LSPs are paid directly by REs and are not charged by LSP to the borrower directly or indirectly from the recovery proceeds.</li> </ul>
10.	Whether a repayment of loan by corporate employer also needs to come directly from the borrower's account?	<ul style="list-style-type: none"> <li>• In instances where a loan product involves advances against salary, though the loan is disbursed directly to the bank account of the borrower, the repayment is from the corporate employer, which deducts the EMI amount from the salary. Such repayments can be allowed subject to the condition that the loan is repaid by the corporate employer by deducting the amount from the borrower's salary.</li> <li>• The REs should, however, ensure that LSPs do not have any control over the flow of funds directly or indirectly in such transactions. It has also to be ensured that repayment is directly from the bank account of the employer to the RE.</li> </ul>

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11.	For co-lending transactions, the Guidelines provide an exemption from direct disbursement to the bank account of the borrower as long as the flow of money is between REs. But is such exemption available only for co-lending transactions undertaken for priority sector lending (PSL)?	The RBI has now clarified that the exemption can be extended to co-lending arrangements between REs for non-PSL loans subject to the condition that no third party other than the REs in a co-lending transaction should have direct or indirect control over the flow of funds at any point of time.
12.	Whether the Guidelines are also applicable for corporate including MSME loans?	The RBI has <i>vide</i> this FAQs clarified that the Guidelines are also applicable for corporate (including MSME loans) and all such transactions, in case they meet the definition of 'digital lending'.
13.	Whether the Guidelines are also applicable to mobile banking apps/websites of banks where, as an additional feature, personal loans or loans against deposits are being offered on the applications?	Mobile and web-based applications with user interface that facilitate borrowing by a financial consumer from a digital lender comes under the purview of 'Digital Lending Apps/ Platforms' and hence the Guidelines are applicable to such 'digital loans' offered over such applications.
14.	Guidelines mandate that penal interest/ charges levied on the borrowers shall be based on the outstanding amount of the loan. One of the questions on this was whether penal interest/ charges can be levied on a lower base?	The RBI clarified that the amount under default shall act as the ceiling on which the penal charges can be levied.
15.	Do penal charges like cheque bounce or mandate failure charges need to annualize?	Penal charges such as cheque bounce/mandate failure charges, which are necessarily levied on a per instance basis may not be annualized. However, these charges must be disclosed separately in the Key Fact Statement ("KFS") under 'Details about Contingent Charges'.
16.	Is refund of processing fee required if customer exits the loan during cooling-off period?	A reasonable one-time processing fee can be retained if the customer exits the loan during cooling-off period, as long as, the same is disclosed to the customer upfront in KFS. The Guidelines though is silent on the definition of 'reasonableness', however to the best of our knowledge the same should be in line with the market practice. The said processing fee

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		has to be mandatorily included for the computation of APR.
17.	The Guidelines require the lender to share details of the recovery agency when sanctioning a loan. But since recovery agents are assigned by the lenders only when loans turn delinquent, one of the questions in the FAQ is - how can the lender specify the details at the time of sanction.	The RBI clarified that at the time of sanction of loan, the borrower may be conveyed the name of empaneled agents authorized to contact the borrower in case of loan default, and if the loan turns delinquent and the recovery agent has been assigned to the borrower, the particulars of such recovery agent assigned must be communicated to the borrower through email/SMS before the recovery agent contacts the borrower for recovery.
18.	Disclosure of annualised rate of interest by NBFCs?	The RBI stated that NBFCs also need to disclose the annualised rate of interest to the borrowers as required under Fair Practices Code even if they are already disclosing APR in the KFS.

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