



February 2023

FAQs on guidelines on digital lending

The Reserve Bank of India ("RBI") released the [frequently asked questions](#) on February 14, 2023 ("FAQs") on the [guidelines on digital lending](#) issued on September 2, 2022 ("DL Guidelines").

Below is a summary of the key clarifications provided in the FAQs.

1. Applicability

The FAQs clarify that the DL Guidelines will also apply, among others, to the following:

- a) A lending transaction where some physical interface is present or certain processes in the loan life cycle are carried out in physical mode. The DL Guidelines define 'Digital Lending' as a "remote and automated lending process" that is "largely by use of seamless digital technologies", and therefore, the whole loan lifecycle does not have to be digital for the DL Guidelines to apply;
- b) Mobile banking app or website of banks where personal loans or loans against deposits are offered as an additional feature;
- c) A payment aggregator, where it performs the role of a lending service provider ("LSP"). However, the RBI has reiterated that the services of a payment aggregator cannot be used for loan repayment and disbursal;
- d) All transactions meeting the definition of 'Digital Lending' as per the DL Guidelines, including corporate loans such as micro, small and medium enterprise loans; and
- e) All loan products offered by credit cards (except credit card transactions converted into EMI transactions, which are separately governed by [RBI Master Directions on Credit Card and Debit Card – Issuance and Conduct](#)) as well as loans offered on debit cards (including EMIs).

2. Qualification of a service provider as an LSP

The FAQs clarify that a service provider that facilitates a lending transaction which qualifies as 'Digital Lending' under the DL Guidelines will be deemed an LSP under the DL Guidelines.

3. Appointment of grievance redressal officer by LSP

As per the FAQs, only those LSPs that interface with borrowers are required to appoint a grievance redressal officer. Thus, LSPs that offer ancillary services such as underwriting support, which do not interact with customers/borrowers, do not have to appoint a grievance redressal officer. However, regulated entities ("RES") are obligated to ensure the resolution of complaints arising out of actions of all LSPs engaged by them.

4. **Payment aggregator as an LSP**

The FAQs reiterate that no LSP should be involved in the handling of funds. It is also clarified that while payment aggregators are not covered within the ambit of the DL Guidelines, if payment aggregators undertake activities which may qualify them as an LSP, such payment aggregators must comply with the DL Guidelines to such extent.

5. **Fund Flow in case of advances against salary**

The DL Guidelines impose a strict rule that all fund flows with respect to disbursements and repayment of loans should be between the bank accounts of the RE and the borrower only and no pass-through or pool accounts of a third party should be a part of the fund flows. However, the FAQs relax this rule in case of repayment of advances against salary and clarify that a corporate employer may repay a loan on its employee's behalf by deducting such repaid loan amount from the borrower's salary. The FAQs specify that even in such situations, REs must ensure that LSPs do not, in any way, control the fund flow. In addition, the repayment must be made directly from the bank account of the corporate employer to the RE's/lender's bank account.

6. **Exemptions to direct disbursement**

The RE's obligation to ensure direct disbursement of funds to borrower's bank account was subject to specific exemptions under Para 3 of the DL Guidelines. The FAQs have provided further clarity on and expanded the scope of such exemptions.

- a) **Co-lending** – It has been clarified that the exemption for co-lending transactions is not limited to co-lending transactions under the priority sector (*such as agriculture, housing, education*), but also extends to co-lending arrangements between REs in the non-priority sector, provided that no third party will have control (*whether direct or indirect*) over the flow of funds in such transactions at any time.
- b) **Recovery agents** – The FAQs also exempt the recovery of delinquent loans in cash by recovery agents from the requirement of direct repayment into the respective REs' bank accounts, where such recovery through physical interface is absolutely necessary. However, this exemption is subject to the following conditions: (i) such amounts recovered in cash should be reflected in the borrower's account; and (ii) any fees or charges payable to LSPs must be directly paid by the REs and cannot be deducted from the recovered amounts by the LSP or otherwise charged by the LSP to the borrower.

7. **Details of recovery agents**

The FAQs provide the following clarifications with respect to the requirement to notify borrowers of recovery agents at the time of sanction of loan and when the recovery agent is assigned:

- a) At the time of sanction, the REs must provide a list of names of empanelled agents authorised to contact the borrower in case of a default.
- b) At the time of default, the REs must intimate borrowers through email or SMS before the assigned recovery agent contacts the borrower.

8. **Annual Percentage Rate ("APR")**

APR refers to the effective annualised rate charged to the borrower of a digital loan. It is calculated by including costs such as cost of funds, credit cost and operating cost, processing fee, verification charges and maintenance charges but expressly exclude contingent charges like penal charges, late payment charges, etc. The FAQs clarify the following as regards APR:

- a) Computation of APR must include insurance charges only for where the insurance is linked/integrated in loan products (i.e., such insurance charges are intrinsic to the nature of such digital loans);
- b) For floating rate loans, APR may be disclosed in the key fact statement at the time of origination based on prevailing rate. Then, as and when the rate changes, regulated entities may disclose revised APR to customers by email or SMS each time the revised APR becomes applicable; and

- c) Even where APR is disclosed in the key fact statement as required by the DL Guidelines, the REs must also disclose annualised rate of interest as required under the [Fair Practices Code for NBFCs](#).

9. Details of charges

The FAQs permit REs to retain a reasonable one-time processing fee charged even if the customer exits the loan arrangement during the cooling off period, provided such practice is appropriately disclosed in the key fact statement and the processing fee is included in the APR specified therein. In addition, any penal charges (such as charges for cheque bounces or mandate failures) should also be disclosed in the key fact statement as contingent charges.

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