

Para No.	Heading	Existing	Required clarifications / suggestions
2.3	Digital Lending	A remote and automated lending process, largely by use of seamless digital technologies for customer acquisition, credit assessment, loan approval, disbursement, recovery, and associated customer service.	<p>Mere using of digital technology for customer acquisition or servicing shall not be treated as digital lending.</p> <p>Digital Technology provider which is just acting as digital DSA for loan ticket size more than Rs.2 Lakhs should not be treated as digital lending.</p>
2.4	DLAs	Mobile and web-based applications with user interface that facilitate digital lending services. DLAs will include apps of the Regulated Entities (REs) as well as those operated by Lending Service Providers (LSPs) engaged by REs for extending any credit facilitation services in conformity with extant outsourcing guidelines issued by the Reserve Bank.	<p>There should be clear distinction between DLA/LSPs having customer interface and RE's employees/staff using digital apps for onboarding alternative to physical activities.</p>
2.5	LSP	An agent of a Regulated Entity who carries out one or more of lender's functions or part thereof in customer acquisition, underwriting support, pricing support, servicing, monitoring, recovery of specific loan or loan portfolio on behalf of REs in conformity with extant outsourcing guidelines issued by the Reserve Bank.	

3	Loan Disbursal, Servicing and Repayment	REs shall ensure that all loan servicing, repayment, etc., shall be executed by the borrower directly in the RE's bank account without any pass-through account/ pool account of any third party. The disbursements shall always be made into the bank account of the borrower except for disbursements covered exclusively under statutory or regulatory mandate (of RBI or of any other regulator), flow of money between REs for co-lending transactions and disbursements for specific end use, provided the loan is disbursed directly into the bank account of the end-beneficiary. REs shall ensure that in no case, disbursement is made to a third-party account, including the accounts of LSPs and their DLAs, except as provided for in these guidelines.	<p>RBI should classify only the loan transactions which are carried out through automated end to end processing as Digital Lending transactions.</p> <p>Certain UPI payment transactions are routed to Escrow Accounts as per NPCI regulations and based on Guidelines on Regulation of Payment Aggregators and Payment Gateways and are authorized to provide payment services subject to conditions laid down in the said Guidelines. The condition of payment directly to REs Accounts need to be relaxed for those activities undertaken by LSPs which are monitored and regulated as referred above.</p> <p>Exception may be allowed for repayment from accounts that accrue to customers after obtaining due consent. Particularly, to allow for repayment through pool/ Nodal accounts held for settlement to merchants, for POS transactions. Such an exception alone will make relevant offerings like daily instalment loan product feasible.</p> <p>Exception may also be considered for the loans granted by an RE through the employer (as part of the Employees Welfare Programme) and the recovery is made by the employer out of the employee's salary and the amount so collected is remitted to the REs for credit to the individual borrower's account.</p> <p>Further clarifications required - whether loan transaction partially through digital process and partially through physical process will also fall under this category?</p> <p>Types of disbursements that will be covered exclusively under statutory or regulatory mandate for disbursement other than primary account & List of lending products which will be covered under specified end use needs to be clarified</p>
4.1.	Payment of Fees/Charges:	REs shall ensure that any fees, charges, etc., payable to LSPs are paid directly by them (REs) and are not charged by LSP to the borrower directly.	Customers selecting the payment methods (Credit/ Debit/UPI/Internet Transactions) are charged by respective banking institutions towards using payment gateways. Hence those transaction charges need to be exempted from this guideline as LSPs will not charge. The said charges, if applicable, are apparently visible to customer while opting the type of payments
4.2	Penal Interest / Charges	The penal interest/charges levied, if any, on the borrowers shall be based on the outstanding amount of the loan. Further, rate of such penal charges shall be disclosed upfront on an annualized basis to the borrower in the Key Fact Statement (KFS).	NBFCs are following this as per Fair Practice Code. However certain information cannot be disclosed without booking contract. Hence the key information which are covered in Loan offer letter and consent is obtained.
5.1	Annual Percentage Rate	APR as all-inclusive cost of digital loans for the borrower shall be disclosed upfront by REs and shall also be a part of the Key Fact Statement.	It is recommended to exclude the opt-in based insurance charges from the APR definition.

5.2.1	Key Fact Statement	REs shall provide a Key Fact Statement (KFS) to the borrower before the execution of the contract in a standardized format for all digital lending products. The format of KFS is provided in Annex-II.	<p>Banks and NBFCs follow Fair Practice Code which mandates to record consent of Customer in Loan Offer Letter and post booking the contract/Loan all the key information agreed is communicated in writing. Also rate of interest and other important terms can be communicated once the approval process is completed and borrower executes the loan agreement and other financial documents.</p> <p>However, KFS requires all these details in advance (even before signing of loan agreement), this will have significant impact on the existing Loan booking process, infrastructure and time. Further it will create challenges to change the entire loan process and duplicate the steps which is burden/Non-value work for Banks/NBFCs.</p> <p>Further clarifications are required on requirements of KFS for non-term loan products such as Line of Credit / OD. Whether institutions can make the changes in the KFS format which is prescribed in the circular.</p>
5.3	Digitally signed documents	REs shall ensure that digitally signed documents (on the letter head of the RE) viz., KFS, summary of loan product, sanction letter, terms and conditions, account statements, privacy policies of the LSPs/DLAs with respect to borrowers data etc. shall automatically flow to the borrowers on their registered and verified email/ SMS upon execution of the loan contract/ transactions.	This para mandates to provide digitally signed documents on letter head of RE - these documents include privacy policies of LSPs as well. However, Privacy policy of LSP will not be possible to sign on letter head of RE.
5.4	List of LSPs	REs shall prominently publish the list of their DLAs, LSPs engaged by them and DLAs of such LSPs with the details of the activities for which they have been engaged on their website.	Clarity required on Guidelines for placing LSP details (list of information pertaining to the LSP required) on the website
5.5	Product Information	REs shall ensure that their DLAs or DLAs of their LSPs at on-boarding/sign-up stage, prominently display information relating to the product features, loan limit and cost etc., so as to make the borrowers aware of these aspects	Clarity required on what is to be communicated as cost when displaying product information
5.7	Link to website	Link to website - REs shall ensure that DLAs of REs and LSPs have links to REs' website where further/ detailed information about the loan products, the lender, the LSP, particulars of customer care, link to Sachet Portal, privacy policies, etc. can be accessed by the borrowers. It shall be ensured that all such details are available at a prominent single place on the website for ease of accessibility.	Clarity required on Guidelines for placing details (further/detailed information about the products, lender, the LSP, particulars of customer care, link to Sachet Portal, privacy policies etc.) on the website.

8	Cooling off / lock in period	A borrower shall be given an explicit option to exit digital loan by paying the principal and the proportionate APR without any penalty during this period. The cooling off period shall be determined by the Board of the RE. The period so determined shall not be less than three days for loans having tenor of seven days or more and one day for loans having tenor of less than seven days. For borrowers continuing with the loan even after look-up period, pre-payment shall continue to be allowed as per extant RBI guidelines.	<p>NBFCs currently provide Pre-closure option to their customers which factor the cost of funds since it has direct impact on borrowing cost for NBFCs. Hence, Cooling off/Lock in period shall be restricted to DLAs/LSPs/REs using the small ticket loans having below 6 months Loan tenure.</p> <p>NBFCs shall be allowed to charge customers the Processing Fee (a genuine cost incurred for processing the application) for Loans. The costs incurred for acquiring customers, credit underwriting and KYC need to be charged to customers even if they choose to close the loan.</p>
9	Due diligence and other requirements with respect to LSPs	9.1. REs must conduct enhanced due diligence before entering into a partnership with a LSP for digital lending, taking into account its technical abilities, data privacy policies and storage systems, fairness in conduct with borrowers and ability to comply with regulations and statutes.	<p>Clarity required on:</p> <ol style="list-style-type: none"> 1. Frequency of review of LSP as required by regulator 2. Guidelines for conduct of due diligence - key factors to be checked for determination of eligibility of a good LSP 3. Guidelines for defining cyber-security framework & technology standards for LSPs
10.2 & 10.3	Collection, usage and sharing of data with third parties	The borrower shall be provided with an option to give or deny consent for use of specific data, restrict disclosure to third parties, data retention, revoke consent already granted to collect personal data and if required, make the app delete/ forget the data.	All institutions obtain the consent of the customers at the time of execution of the loan documents. Consent can be restricted for the specific purpose instead of requirement of obtaining consent each time. Right to revoke and obtain consent at every stage is practically difficult with current infrastructures prevailing in India. In India we do not have codified law on Data Privacy and moving from unregulated to high regulation mirroring GDPR (European Law) is practically challenging. Current infrastructures have not developed and even for implementation of the GDPR laws, time period of 24 months was allowed for smooth transition. Hence please defer this requirement to upcoming legislation on Data Privacy Bill.

<p>1.2 & 11.4</p>		<p>11.2. REs shall ensure that clear policy guidelines regarding the storage of customer data including the type of data that can be stored, the length of time for which data can be stored, restrictions on the use of data, data destruction protocol, standards for handling security breach, etc., are put in place and also disclosed by DLAs of the REs and of the LSP engaged by the RE prominently on their website and the apps at all times.</p>	<p>NBFCs having the parent entities/Ultimate holding companies outside India and the infrastructure is built outside India over decades to serve Customer and providing best in world class services. New Regulation directing to set up new servers within India in short duration of 90 days will be large endeavor, herculean effort and difficult to comply practically. Some of the key challenges:</p> <ul style="list-style-type: none"> ➤ NBFCs especially Captives supporting their parent entities which are Large Multinational Auto/Agri Manufacturing equipment Companies are depending on the IT and other infrastructures outside India and setting up standalone infrastructure in India will not be possible in 90 days. ➤ RBI should consider to extend minimum 12 months' time for transition and further should have liberal approach to allow anonymized data flow outside India enabling / promoting the Analytical study/develop the solutions. ➤ RBI should allow as an exception to MNCs to store copy of source system data other than India for analysis purposes subject to Indian Governing regulations and laws. ➤ Government of India in 2019 initiated the steps to bring in New Legislation on Data Protection Rights and the attempt had a reference of providing transition time of 18 months including similar recommendation/emphasis were made by the Joint Parliamentary Committee in its report. While Government of India is having multiple deliberations and inputs from various industry bodies, Federations and association to have a consensus, current regulation without taking into consideration of any such challenges simply mandated "All Data is Stored in Servers Located in India" raises question of constitutional validity.
<p>13</p>	<p>Technology standards</p>	<p>REs shall ensure that they and the LSPs engaged by them comply with various technology standards/ requirements on cybersecurity stipulated by RBI and other agencies, or as may be specified from time to time, for undertaking digital lending.</p>	<p>Requirement is ambiguous in nature. RBI is requested to specify the applicable laws/ regulations.</p>
<p>15</p>	<p>Loss sharing arrangement in case of default</p>	<p>As regards the industry practice of offering financial products involving contractual agreements such as First Loss Default Guarantee (FLDG) in which a third party guarantees to compensate up to a certain percentage of default in a loan portfolio of the RE, it is advised that REs shall adhere to the provisions of the Master Direction – Reserve Bank of India (Securitization of Standard Assets) Directions, 2021 dated September 24, 2021, especially, synthetic securitisation contained in Para (6)(c).</p>	<p>Considering the co-lending arrangements between REs, whether Limit on Total Retained Exposures by Originators prescribed under para 25 of Section E of Master Direction – Reserve Bank of India (Securitisation of Standard Assets) Directions, 2021 is applicable to the REs. Further, kindly clarify the specific paragraphs of the Master Direction – Reserve Bank of India (Securitisation of Standard Assets) Directions, 2021 which will be applicable for digital lending. Clarity on the applicability of the circular on FLDGs and synthetic securitization and on Res</p>