

INDIA LEGAL UPDATE

May 31, 2023

RBI has issued FAQs on Digital Lending Guidelines

Notification Date
February 14, 2023
Effective Date
February 14, 2023
Legal Framework
Reserve Bank of India Act, 1934
Government Authority
Reserve Bank of India
Source Weblink
FAQs on Digital Lending Guidelines

LEGAL UPDATE

To clarify the scope and extent of application of the DLG (Digital Lending Guidelines) and address the concerns of the stakeholders in the digital lending ecosystem in India, the RBI has issued FAQs on "Digital Lending Guidelines".

KEY QUESTIONS

Whether a lending transaction would fall under the definition of digital lending only if all the processes in the life cycle of a loan are carried out digitally? Can some of these processes be carried out in physical mode also?

The phrase 'largely by use of seamless digital technologies' is used in the Digital Lending definition to accord operational flexibility to REs in 'Digital Lending'. Therefore, even if some physical interface with the customer is present, the lending will still fall under the definition of Digital Lending.

Whether any service provider to whom RE has outsourced some of its credit intermediation activities would fall within the definition of a Lending Service Provider (LSP) even if the lending transaction in question does not fall under the definition of 'Digital Lending'?

As provided in the Circular dated September 2, 2022, these Guidelines apply to 'Digital Lending'. Hence, only if a lending transaction qualifies under the definition of 'Digital Lending', the service provider facilitating such lending will be designated as LSP.

Whether all LSPs need to appoint Grievance Redressal Officers?

No, only those LSPs which have an interface with the borrowers are required to appoint a nodal Grievance Redressal Officer.

Whether credit card activities will also come under the ambit of DLG?

No, only debit card EMI programmes must comply with DLG. EMI programmes on credit cards are governed by the 'Master Direction on Credit Card and Debit Card – Issuance and Conduct, 2022.

KEY QUESTIONS

How to disclose APR (Annual Percentage Rate) in case of floating rate loans?

In the case of floating rate loans, APR may be disclosed at the time of origination based on the prevailing rate as per the format of KFS (Key Financial Statement). As and when the floating rate changes, only the revised APR may be disclosed to the customer via SMS / e-mail.

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 with loan products.

Can the services of PA (Payment Aggregators) be used for loan disbursements and repayments?

While entities offering only PA services shall remain out of the ambit of the DLG, any PA also performing the role of an LSP must comply with the DLG.

When and how should the details of the recovery agents be specified to borrowers?

In case of delinquent loans, REs can deploy a physical interface to recover loans in cash, where necessary. 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 them (REs) and are not charged by LSP to the borrower directly or indirectly from the recovery proceeds.

Whether the Guidelines are also applicable for corporate including MSME loans?

The Guidelines apply to all transactions meeting the definition of 'Digital Lending' as per the DLG.

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?

The Guidelines apply to 'digital loans' offered over any digital platform which meets the definition of DLAs (Digital Lending Apps/Platform).

Whether penal interest / charges can be levied on a lower base?

The amount under default shall act as the ceiling on which the penal charges can be levied.

Is it mandatory to annualise cheque bounce or mandate failure charges levied as per instance/occurrence basis?

These penal charges which are necessarily levied on an instance basis may not be annualised. It must be disclosed separately in the KFS under 'Details about Contingent Charges'.

Is processing fees required to be refunded if the customer exits the loan during the cooling-off period?

A reasonable one-time processing fee can be retained if the customer exits the loan during the cooling-off period. The processing fee must be included in the computation of APR.

KEY QUESTIONS

How can the lender specify the details of the recovery agents at the time of sanction?

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.

Queries?

If you have any queries about this article, please reach out to our experts:



Jyoti Kukreja (ジヨティ ククレージャ)
Partner / Director | Legal Practice

Mobile: +91-98-9159-2915
Email: Jyoti@HLS-Global.in



Ejima Naoto (江嶋直人)
General Manager | Japan Desk

Mobile: +91-91-0803-0825
Email: nejima@HLS-Global.in



Priyanka Bhutani (プリヤンカブータニ)
Senior Manager | Knowledge Management

Mobile: +91-85-8797-2798
Email: Priyanka@HLS-Global.in

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

HLS Global in India

New Delhi (Corporate Office)

Vegas Mall, Office Block-B, 8th Floor, Unit No.883, Sector-14, Dwarka, New Delhi 110075 | India
Tel.: +91-11-6134-0450
Email: Info@HLS-Global.in
JapanDesk@HLS-Global.in

Gurugram

Level 1, Building No. 10A, DLF Cyber City, Gurugram
Tel.: +91-79-8266-6136
Email: Info@HLS-Global.in

Japanese Zone - Neemrana

Office No. 206, Regent Square Mall, CP-4, Japanese Zone, Neemrana, Rajasthan - 301705
Tel.: +91-73-5732-0237
Email: JapanDesk@HLS-Global.in

Lucknow

Office No. 22/181, Indira Nagar, Lucknow, Uttar Pradesh - 226016
Tel.: +91-93-3536-3533
Email: Info@HLS-Global.in

Mumbai

Plot C-20, G Block Near MCA, Bandra Kurla Complex, Bandra(East), Mumbai City MH 400051
Tel.: +91-93-3536-3533
Email: Info@HLS-Global.in

Ahmedabad

A - 413, Titanium Business Park, Beside Railway underpass, Makarba, Ahmedabad-380051
Tel.: +91-79-8266-6136
Email: Info@HLS-Global.in

Connect with us on Social Media



www.HLS-Global.in

Noida

304, 3rd Floor, Tradex Tower-1, Alpha Commercial Belt, Alpha-1, Greater Noida, Uttar Pradesh-201310
Tel.: +91-79-8266-6136
Email: Info@HLS-Global.in

Bangalore

Old Data Center, West Wing, North Tower, Level 6, ITC Green Centre, Dodda Banaswadi Main Rd, Bengaluru, Karnataka 560005
Tel.: +91-79-8266-6136
Email: Info@HLS-Global.in

HLS Global Worldwide

Japan Office

Tokyo

www.HLS-Global.jp

US Offices

Los Angeles (Headquarters)
New York
Indianapolis
Chicago
Atlanta
San Jose

www.HLS-Global.com

Mexico Offices

Mexico City
Irapuato

www.HLS-Global.mx

Germany Office

Stuttgart

www.HLS-Global.de



ASTHOM

A member firm of ASTHOM Partners, Japan

<https://asthom.co.jp/>

Germany

Hong Kong

India

Japan

Malaysia

Philippines

Singapore

Thailand

USA

Vietnam