



NEWS UPDATE

JULY 2020

UPDATE - BANKING

Reserve Bank of India (“**RBI**”) issued a notification on 24 June 2020 with respect to financing done by banks and NBFCs through the digital lending platform (“**Notification**”). Under the Notification, RBI has highlighted certain issues faced by the customers using the digital lending platforms and directed banks and NBFCs (including housing financing companies) to follow the regulatory framework and guidelines issued earlier.

HIGHLIGHTS OF THE NOTIFICATION

1. RBI took note of several complaints against the digital lending platforms relating to exorbitant interest rates, non-transparent methods to calculate interest, harsh recovery measures, illegitimate use of personal data, bad behavior and failure to disclose the name of the Bank or NBFC as a result of which the customers are unable to access available grievance redressal avenues;
2. RBI has emphasized that the banks and NBFCs lending over the digital lending platforms must strictly adhere to the regulatory framework for outsourcing of services (including financial services and information technology related services) and the fair practices code by banks and NBFCs which have been issued earlier. The regulatory framework and guidelines should be followed irrespective of whether the banks or NBFCs lend through their own digital lending platform or through an outsourced lending platform;
3. RBI reiterated that outsourcing of any activity by banks or NBFCs will not diminish their obligations and the responsibility of compliance with regulatory instructions and guidelines will solely be on the banks and NBFCs. If banks and NBFCs engage digital lending platforms as their agents to source borrowers and/ or to recover dues, they must follow the following instructions:
 - (a) names of digital lending platforms engaged as agents must be disclosed on the website of the banks and/or NBFCs.
 - (b) digital lending platforms are required to disclose upfront the name of the Bank or NBFC on whose behalf they are interacting with the customer;
 - (c) issuance of the sanction letter to the borrower must be on the letterhead of the banks or NBFCs;
 - (d) Banks and NBFCs must provide a copy of the loan agreement and all annexures to such agreement at the time of sanction or disbursement of loans;

- (e) effective oversight and monitoring of the digital lending platforms engaged must be undertaken by the banks or NBFCs; and
- (f) adequate efforts should be made towards creation of awareness around the grievance redressal mechanism.

IMPACT

1. Though no penal consequences have been prescribed in the notification, RBI appears to be looking to get banks and NBFCs to take more responsibility of the methods adopted by the digital lending platforms they engage through including probably having them re-examining their outsourcing arrangements particularly with respect to the grievance redressal mechanism adopted by such outsourcing partners.
2. Websites, mobile applications and other digital lending platforms of the banks and NBFCs may require certain modifications to comply with the Notification and the regulatory framework issued by RBI, particularly with the identity of the lender.
3. The procedures to be followed on digital lending platforms may require certain amendments with respect to issuing sanction letters and executing loan agreements.

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