RBI issues guidelines to regulate payment aggregators and payment gateways

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In brief

Recently, the Reserve Bank of India (RBI) released guidelines[1] to regulate payment aggregators (PAs) and payment gateways (PGs). The guidelines mandate PAs to obtain authorisation from the RBI, obligate settlement of payment to merchant in a defined transaction time, segregate e-commerce marketplaces from the PA entities and prescribe minimum net worth requirements of INR 250m. Existing PAs are required to apply for authorisation by 30 June 2021.

The Guideline prescribes detailed technology and operational guidelines for PAs such as merchant onboarding, data sovereignty, customer data access, audit obligations, etc. Baseline technology-related security recommendations have also been recommended for optional adoption by PGs.

The key highlights of the guidelines are summarised below.

In detail

Definition of PAs and PGs

- PAs have been defined as *"entities that facilitate e-commerce sites and merchants to accept various payment instruments from the customers for completion of their payment obligations without the need for merchants to create a separate payment integration system of their own. PAs facilitate merchants to connect with acquirers. In the process, they receive payments from customers, pool and transfer them on to the merchants after a time period."*
- PGs have been defined as *"entities that provide technology infrastructure to route and facilitate processing of an online payment transaction without any involvement in handling of funds."*

Applicability

- Online transactions;
- Exemption - Cash on Delivery e-commerce model, Bank Pas;
- Also, for domestic leg of import and export related payments facilitated by Pas.

Authorisation

- Non-bank PAs require authorisation from the Department of Payment System and Settlement, RBI.
- Prescribed date - Existing PA service provider - on or before 30 June 2021.
- Permitted continuance of operations until RBI authorisation.
- Mandatory segregation of business of e-commerce marketplaces and payment aggregation before application.
- PGs do not require authorisation but are recommended to comply with guidelines issued by the RBI on "Managing Risks and Code of Conduct

[1] Notification No. RBI/DPSS/2019-20/174 DPSS.CO.PD.No.1810/02.14.008/2019-20 dated 17 March 2020

in Outsourcing of Financial Services by banks" and baseline technology requirements.

Capital requirements

- Minimum capital requirement applicable to PAs is INR 250m.
  - Existing PAs to achieve a net worth of INR 150m by 31 March 2021 and a net worth of INR 250m by the end of the third financial year, i.e., on or before 31 March 2023, and shall be maintained at all times thereafter.
  - New PAs to have a minimum net worth of INR 150m at the time of application for authorisation and shall attain a net worth of INR 250m by the end of the third financial year of grant of authorisation. This shall be maintained at all times thereafter.

Compliance and governance

- The promoters of the entity shall satisfy the fit and proper criteria prescribed by the RBI
- The Know Your Customer/ Anti-Money Laundering/ Combating Financing of Terrorism guidelines issued in the "Master Direction – Know Your Customer Directions" shall apply to all entities.
- A Board approved policy for customer grievance (comprising disposal of complaints/ dispute resolution mechanism/ time-lines for processing refunds, etc.), merchant onboarding, information security, etc., to be put in place.
- PAs shall appoint a Nodal Officer responsible for regulatory and customer grievance handling functions, details of whom shall be prominently displayed on their website.
- PA shall undertake reporting obligations as mandated in the guidelines.

Merchant and onboarding

PAs shall -

- Undertake background and antecedent check of merchants to ensure that such merchants do not have any malafide intention.
- Be responsible for checking PCI-DSS and PA-DSS compliance of the infrastructure of the merchants onboarded.
- Obtain periodic security assessment reports either based on the risk assessment (large or small merchants) and/ or at the time of renewal of contracts.

Settlement and escrow account management

- Non-bank PAs shall maintain the amount collected by them in an escrow account with any scheduled commercial bank.
- No interest shall be payable by the bank on balances maintained in the escrow account, except when the PA enters into an agreement with the bank maintaining the escrow account, to transfer the "core portion[2]" of the amount, in the escrow account, to a separate account on which interest is payable.
- The obligation to settle a transaction is clearly outlined in 4 scenarios:
  - If a PA is responsible for delivery of goods/ services - payment to merchant in one day plus date of intimation by the merchant to the intermediary about shipment of goods (Ts).
  - If the merchant is responsible for delivery - payment to merchant in one day plus date of confirmation by the merchant to the intermediary about delivery of goods to the customer (Td).
  - If there is an agreement, by which the merchant provides for keeping the amount by the PA until the expiry of the refund period - payment to merchant in one day plus date of expiry of refund period as fixed by the merchant (Tr).
  - Amounts deducted from the customer's account - remitted to escrow - on same or plus one day from date of charge/ debit to the customer's account against the purchase of goods/ services (Tp).
- Minimum balance on day end should be the amount already collected from customer as per "Tp" or the amount due to the merchant, whichever is higher.
- PAs shall submit their list of acquired merchants to the bank in which they are maintaining the escrow account.
- The escrow account balance and the core portion

[2] "Core Portion" shall be computed as under:
Step 1: Compute lowest daily outstanding balance (LB) in the escrow account on a fortnightly (FN) basis, for 26 fortnights from the preceding month.
Step 2: Calculate the average of the lowest fortnightly outstanding balances [(LB1 of FN1+ LB2 of FN2+ ....+ LB26 of FN26) divided by26].
Step 3: The average balance so computed represents the "Core Portion" eligible to earn interest.

maintained is to be disclosed in the auditors' certificates submitted to the RBI on quarterly and annual basis.

Baseline technology-related security

These are mandatory for PAs and recommendatory for PGs.

- Vendor risk management: The Service Level Agreements for technology support, including BCP-DR and data management, shall categorically include clauses permitting regulatory access to these set-ups.
- Security incident reporting: Security incidents/ card-holder data breaches to be reported to the RBI within the stipulated timeframe.
- Cyber security audit and reports: PAs shall carry out and submit quarterly internal and annual external audit reports to the IT Committee; bi-annual Vulnerability Assessment/ Penetration Test reports; PCI-DSS, including Attestation of Compliance and Report of Compliance.
- Data sovereignty: PAs shall take preventive measures to ensure storing of data on infrastructure that does not belong to external jurisdictions.
- Information security and governance: A Board approved IT policy and information security policy must be framed and reviewed annually.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact your local PwC advisor

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