



Cambridge  
Centre  
for Alternative  
Finance



UNIVERSITY OF  
CAMBRIDGE  
Judge Business School

# Digital Payments & Remittances

(mobile wallets/e-money, payment initiation, mobile point-of-sale)

## India

[www.bfaglobal.com](http://www.bfaglobal.com) | [@bfaglobal](https://twitter.com/bfaglobal)

UPDATED 31 MARCH 2021

Funded by







Cambridge  
Centre  
for Alternative  
Finance

UNIVERSITY OF  
CAMBRIDGE  
Judge Business School



# Disclaimer

**To the best of our knowledge, the information contained herein is accurate and reliable as of the date of publication.**

However, **BFA Global** and the **Cambridge Centre for Alternative Finance** do not assume any liability whatsoever for the accuracy and completeness of the deck, and we provide no warranty, expressed or implied, in respect thereof. The provision of the information contained in this deck does not constitute legal or financial advice nor opinions of any kind. No advisory, fiduciary, or other relationship is created between us and any person accessing or otherwise using any of the information provided herein. **BFA Global**, the **Cambridge Centre for Alternative Finance**, any of their directors, officers, employees, agents, or contributors will not be liable for any damages, losses, or causes of action of any nature arising from any use of any of the said information.



# Relevant Regulations

1. Payments
2. Data protection
3. Consumer protection
4. AML / KYC
5. Competition
6. Taxation

The Cambridge Centre for Alternative Finance (CCAF) and BFA Global have produced this deck to support fintech startups working in India and those seeking to enter the Indian fintech market in navigating the regulatory environment.

This deck provides **an overview of the various regulations relevant to digital payments and remittances in India**, including product areas like **mobile wallets/e-money, payment initiation, and mobile POS**.

Each slide in this deck provides high-level facts about each of the relevant regulations as well as a link to the original source. Not all regulations included in the deck may be relevant based on the nuances of your particular business model.





# 01 — Payments



Cambridge  
Centre  
for Alternative  
Finance

UNIVERSITY OF  
CAMBRIDGE  
Judge Business School



# Payments: General overview

## Main regulator:

The Reserve Bank of India is the primary regulator of the payment systems and has the power to determine compliance standards, conduct audits and inspections, etc.

## Key regulations:

The Payment and Settlement Systems Act, 2007 (as amended) and Payment and Settlement Systems Regulations, 2008 (as amended)

## Scope:

- Section 2(1)(i) of the Act defines a payment system as “a system that enables payment to be effected between a payer and a beneficiary, involving clearing, payment or settlement service or all of them, but does not include a stock exchange”.
- To operate a payment system, prior authorization is required from the RBI.



# Payments: Other payment categories

## Payment aggregators & payment gateways:

The **Guidelines on Regulation of Payment Aggregators and Payment Gateways, 2020** distinguishes between 'payment aggregators' and 'payment gateways'.

- Payment gateways provide technology infrastructure to route and facilitate the processing of an online payment transaction without handling funds itself.
- Payment aggregators provide a wider coverage and extend to all the entities that facilitate e-commerce sites and merchants to accept various payment instruments from customers to complete their payment obligations without the need for merchants to create a separate payment integration system of their own.

## New umbrella entities:

In 2020, the RBI released a framework for the authorization of a pan-India New Umbrella Entity (NUE) for Retail Payments.

- The umbrella entity must be a Company authorized by the RBI under Section 4 of the PSS Act, 2007.
- NUE will set up, manage, and operate new payment systems, especially in the retail space comprising but not limited to ATMs, White Label, PoS, and Aadhaar based payments; remittance services; developing new payment methods and standards; and technologies in the country and internationally.
- NUE would operate in clearing and settlement systems. It would also identify and manage relevant risks such as settlement, credit, liquidity, and operational and preserve the integrity of the systems.
- NUE would have independence to conduct other suitable business intended to further strengthen the retail payments ecosystem in India



# Payments: Acquiring a payment system license

**Who:** Applies to all systems that enable payment to be effected between a payer and a beneficiary, involving any combination of clearing, payment, or settlement services, but does not include a stock exchange

**How much:** Fee of INR 10,000/US\$137.84)

**How:** The RBI considers various factors while deciding upon a licensing application, such as: (i) technical standards or design of the payment system (ii) financial status, experience, and integrity of the senior management (iii) terms and conditions of the proposed payments system, etc. (for more details see Form A included as an appendix in the PSS Regulations, 2008). The Act also lists various circumstances under which the license may be revoked (see Section 8 of the Act).

## For Payment Aggregators and Payment Gateways

Section 3 of the Guidelines on Regulation of Payment Aggregators and Payment Gateways, 2020 ("Guidelines") provides more details on the authorization process. It requires the applicants being regulated by another financial sector regulator to produce a no-objection certificate from their respective regulators. This certificate should be submitted along with the application form. These guidelines have established new standards for payment aggregators like a minimum net worth requirement of INR 150 Million (US\$2,070,091.50) at the time of licensing and minimum net-worth of INR 250 Million (US\$3,450,152.50) thereafter, technical standard compliance, and restrictions on e-commerce websites acting as a payment aggregator.

# Payments systems: Use of agents

## Key legislation:

RBI circular on  
“Managing Risks and  
Code of Conduct in  
Outsourcing of  
Financial Services by  
Banks”

## How:

- Payment system operators are permitted to outsource certain tasks by appointing agents. There is no prior approval required for appointing agents.
- If the payment system is operated by a bank, then its agents are bound by the RBI circular on “Managing Risks and Code of Conduct in Outsourcing of Financial Services by Banks”.
- While agents do not require specific registration or licensing with the RBI, their activities are closely governed by the RBI circular.
  - Clause 5.5 mandates the requirements of the outsourcing arrangement between the payment system operator and the third-party agent.
  - As per clause 1.17 of annexure II of the RBI guidelines, payment system operators are required to include a “right to audit” clause in their outsourcing agreements. This clause aims to maintain data security.
  - Third-party agents are required to annually submit independent security audit reports to the principal payment system operator.



# Payments systems: Other requirements

## Reporting obligations:

Section 6 of the **Payment and Settlement Systems Regulations** sets out reporting obligations for the payment system providers, including:

- monthly data of payments processed,
- monthly data of payment defaults,
- dispute statements, and
- audited financial statements.

## Corporate governance obligations:

- Section 5 of the **RBI Guidelines for Payment Aggregators and Gateways** prescribes corporate governance obligations for payment system providers. Promoters and senior management must satisfy 'fit and proper' criteria.
- All payment system providers must adhere to the KYC/AML laws (ex. the RBI "**Master Direction - Know Your Customer (KYC) Directions**")

## Holding client funds:

- Non-bank payment system providers are required to hold the client funds in an escrow account with a scheduled commercial bank.
- RBI Guidelines prescribes rules for settlement procedures and escrow account management (Section 8), risk management (Section 10), and merchant on-boarding (Section 7).

# Payments: E-money issuers

In India e-money is referred to as prepaid payment instruments (PPIs). PPIs facilitate money transfer through digital wallets or payment cards as long as the PPI has been registered for interoperability.

**Key legislation:** “Master Direction on Issuance and Operation of Prepaid Payment Instruments” (the (Directions”). Section 2.3 defines PPIs as payment instruments that “facilitate purchase of goods and services against the value stored on such instruments.” The RBI has categorized PPIs into three broad categories (i) Closed system PPI (ii) Semi-closed system PPI and (iii) Open system PPI.

Parameter	Closed PPI	Semi-closed PPI	Open PPI
Issuers	Any entity	Any banking or non-banking entity	Only banking entities
Approval from RBI	Not required	Required	Required
Functionality	To avail goods and services solely from the issuing entity. Cannot be used for payments/settlement for third party transactions.	To purchase goods and services from a group of clearly identified merchant locations/establishments. Cash withdrawal or redemption is restricted (whether the issuing entity is a banking entity or not).	To purchase goods and services, including financial services, remittance facilities, etc. Banks issuing an open PPI also facilitate cash withdrawal at ATMs, Points of Sale (PoS), and Business Correspondents (BCs).
Transferability of Funds	Restricted	Permitted (Subject to KYC)	Permitted (Subject to KYC)
Examples	<i>Big basket</i> (grocery portal) and <i>Makemytrip</i> wallets	<i>Paytm</i> , <i>Freecharge</i> , <i>Mobikwik</i>	<i>Debit cards</i> , <i>Credit cards</i> , <i>Prepaid cards</i>

# Payments: E-money issuers (cont.)

## Restrictions:

- At any point of time, the outstanding amount held in the full-KYC PPI must not exceed INR 100,000 (US\$1,381).
- In the case of Semi-closed PPI, funds transfer is allowed from a 'full-KYC' PPI within a limit of INR10,000 (US\$138) per month, per holder. However, an enhanced limit of INR 100,000 (US\$1,381) per month, per beneficiary can be availed if the beneficiary is 'pre-registered' by PPI holder.

**Interoperability:** All PPIs that are fully compliant with KYC regulations are encouraged to voluntarily allow interoperability with other PPIs. However, a recent RBI announcement has proposed mandatory interoperability between the fully compliant KYC PPIs.

**Deposit insurance:** Non-bank PPI issuers are required to maintain their outstanding balance in an escrow account with a scheduled commercial bank. An additional escrow account may be maintained with a different scheduled commercial bank at the discretion of the PPI issuer. Any such deposits maintained with the scheduled commercial banks would be insured by the DICGC





# Payments: Acquiring a PPI license

**Who:** Any non-bank entity interested in setting up payment systems for issuance of PPIs

**How much:** Fee of INR 10,000 (US\$138.01)

**Capital requirements:** The issuer must maintain minimum net-worth of INR 50 Million (US\$690,130.60) at the time of licensing application. By the end of its third financial year from the date of grant of permanent license, the issuer must maintain minimum net-worth of INR 150 Million (US\$2,070,391.80).

**How:** An authorization application based on Form A of Payment and Settlement Systems Regulations, 2008 must be submitted to the RBI.

- The RBI considers multiple factors to review applications, such as 'fit and proper' status of the applicant, customer service and efficiency, technical requirements, safety and security arrangements, etc. (see Section 5 of the Directions).
- After deciding the applicant satisfies requirements, the RBI grants an in-principle approval that is valid for six months. The applicant needs to file a System3 Audit Report (SAR) and net-worth certificate within these six months to obtain a permanent license (Section 5.4 of the Directions)
- RBI prescribes guidelines concerning issuing of PPIs (Section 7 of the Directions), Anti-money laundering procedures (Section 6 of the Directions), cross-border transactions (Section 8 of the Directions), risk management (Section 15 of the Directions), and reporting requirements (Section 19 of the Directions).

# Payments: Digital infrastructure

In 2016, India launched the **Unified Payment Interface (UPI)** allowing an individual to access their bank accounts from registered apps and make transactions with any other bank.

- UPI is managed and operated by the National Payments Corporation of India (NPCI)
- It permits the transfer of funds by using the unique virtual payment address (VPA) of each customer, unlike the traditional reliance on bank account details.
- It enables real-time, instantaneous, and mobile-based, bank-to-bank payments. The system is dependent on mobile technologies and telecommunication infrastructure which makes it *easily accessible, affordable, and supportive of universal domestic remittance facilities* to users.

## UPI Models

Sl. No	Types of UPI	Mechanism	Uses
1	Bharat Interface for Money (BHIM)	App based interface for pushing payment transactions using UPI	Bank-to-Bank payments, pay and collect money using a mobile number, a virtual payment address or Aadhaar enabled payments
2	Bharat BillPay	App or web-based interface for recurring payments using UPI	Electricity bills, telecom bills, DTH bills, gas bills, water bills, etc.
3	UPI QR code	A single unified QR code capable of accepting payments and providing seamless transactions across banks for all cardholders and UPI users. It is used for app-based person to person (P2P) as well as person to merchant (P2M) dynamic transactions using virtual payment addresses. This is implemented by NPCI.	Scan QR code to send money from the UPI account of one person to another person's UPI account to facilitate peer to peer transactions.
4	Bharat QR code	A single unified QR code capable of accepting payments and providing seamless transactions across banks for all card holders and UPI users. It is used only for app-based P2M dynamic transactions using virtual payment address. This is implemented by NPCI.	Scan QR code to purchase products and services in grocery store, vending machines, restaurants etc.

# Payments: Digital infrastructure (cont.)

## Interoperability between QR codes:

In order to streamline the QR code infrastructure, the RBI in October 2020 decided to allow two interoperable QR codes (UPI QR code and Bharat QR code) to remain. At the same time, it mandated all Payment System Operators (PSOs) that use proprietary QR codes to shift to one or more of the interoperable QR codes. The migration process must be completed by March 31, 2022. It also banned further issuance of proprietary QR codes by any PSO for any payment transaction.



## EFT mechanisms:

There are three electronic fund transfer mechanisms available in the Indian digital money transfer system:

- Real Time Gross Settlement (RTGS),
- National Electronic Funds Transfer (NEFT), and
- Immediate Payments Service (IMPS).

RBI has made both NEFT and RTGS operational on a 24x7 basis and waived transaction charges through it to incentivize digital payments.



# Payments: Becoming a money remittance operator



Cambridge  
Centre  
for Alternative  
Finance

UNIVERSITY OF  
CAMBRIDGE  
Judge Business School

## Key regulation:

Foreign Exchange Management Act, 1999 (as amended) governs foreign exchange and money remittance businesses.

The RBI further issued “Master Direction- Money Changing Activities” to regulate this sector.

## Scope:

- Select banks (as Authorised Dealers Category-I) to carry out all permissible current and capital account transactions
- Select entities (as Authorised Dealers Category-II) to carry out specified non-trade related current account transactions, all the activities permitted to Full Fledged Money Changers (FFMC), and any other activity as decided by the Reserve Bank.
- Select financial and other institutions (as Authorised Dealers Category-III) to carry out specific foreign exchange transactions incidental to their business/activities
- Select registered companies as FFMCs to undertake purchase of foreign exchange and sale of foreign exchange for specified purposes viz. private and business travel abroad.
- There are also special provisions for Payment Banks and PPIs.

# Payments: Becoming a money remittance operator (cont.)

## Licensing

- Section 10 of the Act requires entities to hold an appropriate license to operate a foreign exchange/remittance business. Detailed licensing requirements for FFMC and Authorized Dealer Category-II can be found in clause 3 of RBI directions. The application must be accompanied by documents such as memorandum of association, audited financial statements, board resolutions, etc. (see Section-I Clause 3(ii)).
- The RBI directions also describe authorization of additional branches (Section-II Clause 1 to 5), appointment and operations of agents/franchisees (Section-III Clause 1 to 9), and record-keeping/reporting requirements (Section V Clause 15 to 16).



# Payments: Other cross border remittance channels

## Liberalized Remittance Scheme

Allows for a free transfer of any remittance up to US\$250,000. However, this scheme is only available to resident individuals, not corporates and partnership firms.

## Rupee Drawing Arrangement (RDA)

The RDA is a channel to receive cross-border remittances from overseas jurisdictions.

- Authorised Category I banks enter into tie-ups with the non-resident Exchange Houses in Financial Action Task Force (FATF) compliant countries to open and maintain their Vostro Accounts.
- There is no limit on the remittance amount or on the number of remittances. However, there is an upper cap of INR1.5 Million (US\$20,706) for trade-related transactions.
- No cash disbursement of remittances is allowed under RDA. The remittances have to be credited to the bank account of the beneficiary.

## Money Transfer Service Scheme (MTSS)

The MTSS is a way of transferring personal remittances from abroad to beneficiaries in India.

- Only personal remittances into India, such as remittances for family maintenance or remittances favouring foreign tourists visiting India, are permissible.
- There is a tie-up between reputed money transfer companies abroad known as Overseas Principals and agents in India known as Indian Agents that disburse funds to beneficiaries in India at the prevailing exchange rate.
- A cap of US\$2,500 is placed on individual remittances. In addition, only thirty remittances can be received by a single individual beneficiary during a calendar year. Also, amounts up to INR 50,000 (US\$690) may be paid in cash to a beneficiary in India. These can be loaded onto a prepaid card issued by banks. Any amount exceeding this limit must be paid by means of account payee cheque, demand draft, payment order, etc., or credited directly to the beneficiary's bank account. However, in exceptional circumstances where the beneficiary is a foreign tourist, higher amounts may be disbursed as cash.



# Payments: Remittances by PPIs & Payment Banks



Cambridge  
Centre  
for Alternative  
Finance

UNIVERSITY OF  
CAMBRIDGE  
Judge Business School

## PPIs for Cross-border outward transactions:

- KYC compliant, reloadable, semi-closed, and open system PPIs issued by banks with AD-I license are permitted to be used in cross-border outward transactions.
- This is only permissible for current account transactions under the Foreign Exchange Management Act, 1999 (i.e., purchase of goods and services) and not for cross-border outward fund transfer or for remittances under the Liberalised Remittance Scheme.

## Payment Banks

- The Guidelines for Licensing of Payments Banks permits Payments Banks to handle cross-border remittance transactions in the nature of personal payments/remittances on the current account, after proper approval from the RBI.

## 02 — Data protection



# Data protection: National provisions

## Key Laws:

Information Technology Act, 2000 ("IT Act") and its corresponding Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011 ("IT Rules"), and the Indian Constitution

## Main provisions:

India does not currently have national legislation governing data protection or privacy. Therefore, regulation is fragmented:

- Personal data is recognized as a fundamental right under Article 21 of the **Indian Constitution**, as ruled by the Supreme Court of India.
- The **IT Act** provides legal recognition of transactions carried out via electronic data interchange and other means of electronic communication.
- Section 43A of the IT Act confers liability on companies which possesses, deals, or handles any sensitive personal data in a computer for any wrongful loss or gain to any person caused due to negligence in implementing and maintaining reasonable data security practices and procedures
- Section 72A of the IT Act states that if any person secures access to personal information while providing contractual services and discloses the data without the consent of the concerned person(s) to any other person shall be punished with a fine and/or imprisonment.
- IT Rules provides individuals with the right to access and correct their information on online platforms. It also mandates that any company collecting sensitive personal information publishes an online privacy policy to which users must agree. Companies must obtain consent of the individual before disclosing sensitive personal information except in the case of law enforcement.
- A comprehensive data protection law - the Personal Data Protection Bill 2019 is currently pending before Parliament



# Data protection: Sectoral provisions

The primary legal instruments that address data protection in the financial sector include:

## Credit:

- The Credit Information Companies (Regulation) Act, 2005 (CIC Act) and the Credit Information Companies Regulation, 2006 (CIC Regulations) recognize credit information companies (CICs) as collectors of information and requires they adhere to privacy principles at the collection stage and uphold those principles during use and disclosure of credit information. CICs are further required to ensure the credit information they hold is accurate, complete, and protected against loss or unauthorized use, access, and disclosure.

## KYC data:

- KYC norms limit the categories of information that banks and financial institutions can seek from their customers. Once such information is collected, there is an obligation on banks to keep it confidential. Any such information collected must not be divulged by the regulated entities under the RBI's purview for the purpose of cross-selling or for any other purpose without the explicit permission of the customer.
- There are similar regulations such as the Master Circular on Credit Card, Debit Card and Rupee Denominated Co-branded Prepaid Card Operations of Banks and Credit Card issuing NBFCs, the Master Circular on Customer Services, 2009, and the Code of Banks Commitment to Customers etc. These create restrictions on the cross-selling of information and impose customer confidentiality obligations

Sources: [The Credit Information Companies \(Regulation\) Act, 2005](#), [the Credit Information Companies Regulation, 2006](#), [Master Direction - Know Your Customer \(KYC\) Direction, 2016](#), [Master Circular on Credit Card, Debit Card and Rupee Denominated Co-branded Prepaid Card Operations of Banks and Credit Card issuing NBFCs](#), [the Master Circular on Customer Services, 2009](#), [the Code of Banks Commitment to Customers](#)

# Data protection: Sectoral provisions (cont.)

## Insurance:

- In the Insurance sector, Insurance Act, 1938 and regulations issued thereunder by the IRDAI, such as IRDAI (Maintenance of Insurance Records) Regulations, 2015, IRDAI (Health Insurance Regulations), 2016, IRDAI (Protection of Policyholders' Interests) Regulations, 2017, and IRDAI (Outsourcing of Activities by Indian Insurers) Regulations, 2017 impose confidentiality provisions.
- Intermediaries in the insurance sector such as corporate agents, third party administrators (TPAs), and web aggregators serve as a bridge between customers and insurance companies by facilitating the process of purchasing insurance products and assisting in the servicing of policies and assessment of claims. These intermediaries also bear confidential information and thus are subject to obligations relating to data protection and preservation of confidentiality, as prescribed by the IRDAI. Each type of intermediary is subject to its own regulations and Code of Conduct. With relation to TPAs, the IRDAI (Third Party Administrators – Health Services) Regulations, 2016 prohibits TPAs from sharing the data and personal information of customers they receive from servicing insurance policies or claims.

A [report](#) by the Ministry of Electronics and Information Technology has mapped the various financial sector laws that contain data protection provisions.

# Data protection: Data localization & cybersecurity

## Data localization:

As there is no comprehensive framework, data localization requirements can be found in sectoral regulations on data protection:

- Per India's 2013 Companies Act, Indian registered companies must maintain their books of account for audit and inspection only in India.
- The IRDAI mandates that all original policyholder records be maintained in India.
- On April 6, 2018, the RBI issued a circular titled Storage of Payment System Data, which mandated that all payment system providers store their payment systems data on servers located within the territorial jurisdiction of India. However, for the foreign leg of the transaction, it is permitted to store the data in the foreign country, if required.

## Cybersecurity:

- The RBI, under the Guidelines on Regulation of Payment Aggregators and Payment Gateways, provides comprehensive baseline technology recommendations for Payment Gateways.
- The SEBI released Master Circulars on creating Cyber Security Resilience Framework for Stockbrokers and for Asset Management Companies.

# Data sharing: Open banking

- Under India's Open Banking approach, customers control their data via NBFCs called Account Aggregators (AAs). AAs act as licensed intermediaries that are responsible for the customers' consent management and consolidate customers' financial information held with different financial entities and spread across financial sector regulators. AAs act as an intermediary between Financial Information Provider (FIP), such as banks, non-banking financial companies, insurance companies, insurance repositories, pension funds, etc., and Financial Information User (FIU), which are entities regulated by any financial sector regulator. The flow of information occurs through Application Programming Interfaces (APIs).
- The transfer of information requires explicit customer consent and with appropriate agreements/authorizations between the AAs, the customers, and the FIPs. Data cannot be stored by the AA or used by it for any other purpose. The regulations also set out explicit and robust data security and customer grievance redressal mechanisms. To protect customers' interest, the AAs are not permitted to undertake any other activity.
- Further, to facilitate seamless movement of data and consent-based sharing, a set of core technical specifications were framed in November 2019 by the Reserve Bank Information Technology Private Limited (ReBIT), a wholly owned subsidiary of the RBI, for adoption by all regulated entities acting either as FIPs or FIUs.
- To protect users' critical financial information and enforce a mechanism for obtaining proper consent from customers, AAs must obtain consent through a standardized electronic consent format as prescribed under regulations. AAs must inform the customer of all the necessary attributes contained in the consent format and the customer's rights to file complaints. Customers are able to revoke consent, following which a new consent would have to be obtained. Explicit onus has also been placed on FIPs to verify the validity of the consent, its specified date and usage, and the credentials of the AA.



# 03 — Consumer protection



Cambridge  
Centre  
for Alternative  
Finance

UNIVERSITY OF  
CAMBRIDGE  
Judge Business School

# Consumer protection: National provisions

**Key Laws:** Consumer Protection Act, 2019

## Main provisions:

- The Consumer Protection Act provides for speedy redressal of all consumer complaints through designated consumer protection redressal forums at the District, State, and National levels.
- The Act vested wide-ranging powers with these redressal forums, starting from search, seizure, and summons to meet the needs of the changing times.
- The Consumer Protection Act also includes e-commerce platforms and electronic service providers under its purview to apply more accountability to online platforms and service providers.



# Consumer protection: Sectoral provisions

Each financial sector regulator has issued its own consumer protection provisions:

## RBI:

- The RBI has formulated a "Charter of Customer Rights" for banks based on global best practices around consumer protection. Banks are required to either prepare their own board-approved policy incorporating the five rights of the Charter or suitably integrate their existing customer service policy with the "Model Customer Rights Policy" formulated by Indian Banks' Association (IBA) / Banking Codes and Standards Boards of India (BCSBI).
- The RBI has three ombudsman schemes - one for banks, a second for NBFCs and a third for digital transactions. The RBI has suggested a potential new ombudsman scheme to unify these schemes to make the mechanism simpler, efficient, and more responsive.
- The ombudsman scheme for digital transaction is implemented by the RBI to enable a protection mechanism for digital payments service providers with relation to unauthorized electronic fund transfers (EFTs) and other digital transaction issues. The scheme contains detailed complaint procedures and a dispute resolution mechanism with a strict timeline for resolving issues. The Ombudsman can award monetary damages for any breach of regulations.

## IRDAI:

- The IRDAI issued the IRDAI (Protection of Policyholders' Interests) Regulations, 2017 to ensure the interests of insurance policyholders are protected. Per Regulation 17, every insurer must have in place proper procedures and effective mechanisms to resolve complaints and grievances of policyholders and claimants efficiently and speedily.

# Consumer protection: Sectoral provisions (cont.)



Cambridge  
Centre  
for Alternative  
Finance

UNIVERSITY OF  
CAMBRIDGE  
Judge Business School

## SEBI:

- SEBI set up the Office of Investor Assistance and Education to protect the interests of investors. It issued SEBI (Aid for Legal Proceedings) Guidelines, 2009 to help investors raise complaints and the SEBI (Investor Protection and Education Fund) Regulations, 2009 whose funds are used to protect investors and promote investor education and awareness.
- SEBI also established online investor complaints redressal system called “SCORES” to address investor complaints against listed companies or regulated entities in the securities market.

## Unified complaints forum:

- All the financial regulators, along with state and law enforcement authorities, created a single consumer awareness and complaints forum where consumers can lodge complaints against any illegal activity carried out by the offending entities.
- The forum can be accessed [here](#).



04 —

# Anti-money laundering (AML)/know your customer (KYC)



Cambridge  
Centre  
for Alternative  
Finance

UNIVERSITY OF  
CAMBRIDGE  
Judge Business School

# AML/KYC: Key laws & main provisions

## Key Laws:

- Prevention of Money Laundering Act, 2002 (PMLA, as amended)
- PML (Maintenance of Records) Rules, 2005
- Aadhaar Act
- Master Direction - Know Your Customer (KYC) Direction, 2016

## Master Direction KYC:

- Applies to all entities regulated by RBI.
- These directions lay out KYC guidelines (Sec. 5), Customer Identification procedures (Sec. 13 and 14), and Customer Due Diligence procedures (Chp. 6) for each type of customer.
- RBI's officially valid KYC documents include passports, permanent account number cards issued by income tax authorities, driving licenses, voter identity cards, and job cards issued under the rural employment guarantee scheme.

## Digital KYC:

On February 25, 2016, RBI introduced "Digital KYC" mechanisms in Section 3 of its amended Master Direction on KYC.

- Digital KYC involves capturing a live photo of the customer and an officially valid document or the proof of possession of Aadhaar where offline verification cannot be completed.
- RBI has further introduced Video based Customer Identification Process (V-CIP) which involves a customer-consent requirement to undertake the Customer Identification Process (CIP).
- Digital KYC and V-CIP KYC is permitted for all entities regulated by RBI.

# AML/KYC: Key laws & main provisions (cont.)

## PML Rules:

- Lay out the procedure and manner of maintaining, and time for furnishing, information and verification of records of the client identity.
- Mandate record maintenance of and allow sectoral regulators to issue their own procedures for maintenance of records.

## Aadhaar Act (EKYC):

- Aadhaar Act established the Unique Identification Authority of India (UIDAI), which manages the specific data collected about Indian citizens. The UIDAI permits the instant verification of biometric and demographic details of the holder through e-verification which is routed via the Aadhaar database (i.e., e-KYC).
- However, the Supreme Court's judgement in *Justice Puttaswamy (Retd.) v. Union of India* denied private entities access to the UIDAI server for e-verification of holder information for KYC. It also restricted the use of Aadhaar as a mandatory KYC document for a limited number of services and permitted banks' access to Aadhaar only with the consent of the holder.

- In collaboration with the industry, the UIDAI released new e-KYC systems to ensure smooth continuation of business. These include the use of XML files, masking of data, and use of QR codes. The accounts opened through these e-KYC mechanisms have certain restrictions on usage.

# AML/KYC: Securities, outsourcing & confidentiality



Cambridge  
Centre  
for Alternative  
Finance

UNIVERSITY OF  
CAMBRIDGE  
Judge Business School

## Investment

SEBI issued Guidelines on Anti-Money Laundering (AML) Standards and Combating the Financing of Terrorism (CFT)/ Obligations of Securities Market Intermediaries. This Master Circular requires all SEBI-registered entities have AML policies in place and lays out the manner and procedure to maintain records.

## Outsourcing KYC

Banks, NBFCs, and other Regulated Entities (RE) may engage third parties for data collection for KYC purposes and rely on the third party's customer due diligence. However, REs are required to ensure that decision-making to determine compliance with KYC norms is not outsourced.

## Confidentiality

There are Secrecy Obligations and restrictions on sharing KYC information (Section 56 of Master Directions). Information collected from customers for the purpose of opening an account is treated as confidential and related details cannot be divulged for the purpose of cross selling or for any other purpose without the express permission of the customer.



# 05 — Competition



Cambridge  
Centre  
for Alternative  
Finance

UNIVERSITY OF  
CAMBRIDGE  
Judge Business School

# Competition: Relevant legislation & regulatory powers



## Competition Act:

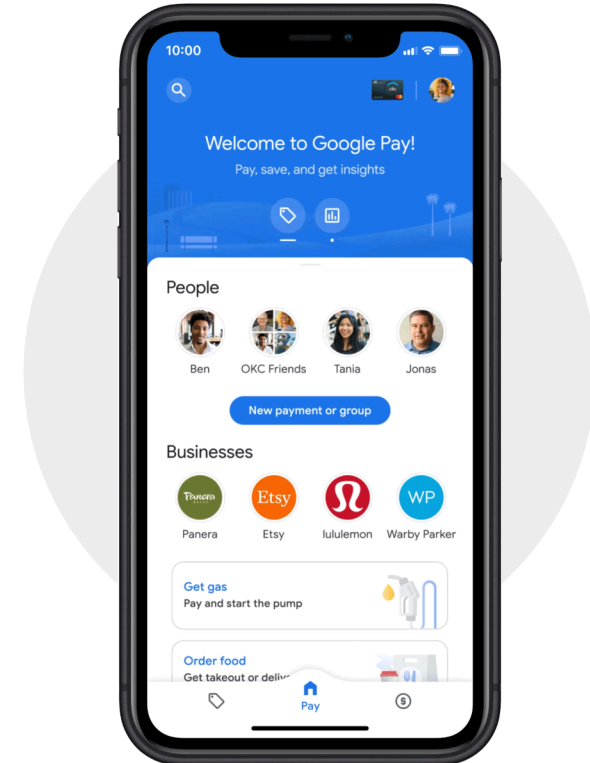
- The Competition Act, 2002 regulates various types of business activities.
- Section 3 of the Act prohibits vertical and horizontal anti-competitive agreements (e.g. between cartels) which causes or is likely to cause an appreciable adverse effect on competition (AAEC).
- Section 4 prohibits market players from abusing their “dominant position” by clearly prohibiting practices like predatory pricing that create a barrier to entry for new players.
- Section 5 regulates combination agreements (i.e. mergers or acquisitions) to prohibit them from hindering fair competition in the market.

## Competition Commission of India:

- The Competition Act, 2002 establishes the Competition Commission of India (CCI). The CCI is responsible for eradicating anti-competitive practices, promoting and sustaining competition in markets, protecting consumers’ interests, and ensuring freedom of trade for other participants in markets (Section 18)
- Section 19 of the Act empowers the CCI to initiate an inquiry against a business organization for violation of Section 3 or 4.
- Section 19 also stipulates the factors the CCI will consider in determining if an arrangement or an activity causes an AAEC and if it should be deemed void.
- Section 20 empowers the CCI to initiate an inquiry against combination agreements for violations of Sections 5 and 6 and outlines the factors that must be considered to determine whether an agreement causes an AAEC in the market.

# Competition: Focus on fintech

- The NPCI recently released a circular and Standard Operating Procedure mandating all Third-Party Application Providers such as Google Pay and PayPal to not exceed 30% of the overall volume of transactions processed in UPI payments.
- As recently as November 2020, the CCI ordered detailed investigation into Google Pay's activities for possible violations of Section 4 of the Competition Act.





# 07 — Taxation of financial services



Cambridge  
Centre  
for Alternative  
Finance

UNIVERSITY OF  
CAMBRIDGE  
Judge Business School

# Taxation: Financial services

## Tax incentives:

- The Start-up India initiative seeks to promote and incentivize startups by providing certain tax waivers for startups incorporated after 1 April 2016.
  - This includes a 100% tax rebate on profits for a total period of 3 years within a period of 10 years.
  - The tax incentive scheme has been extended until the end of the financial year 2022.
- A new section 54 EE was inserted in the Income Tax Act for eligible startups to exempt their tax on long-term capital gains within a period of six months from the date of transfer of the asset if such a long-term capital gain or a part thereof is invested in certain funds designated by Central Government as exemptible. To date the Central Government has not designated any funds as exemptible.
- There are tax rebates for merchants accepting more than 50% of their transactions digitally and for merchants providing cash back incentives to consumers for making payments of their GST Bills via prescribed digital modes.

## Normal tax rate:

- If the given financial service does not fall within any exemption or promotion scheme of the Government of India, then it shall be subject to corporate tax regime under the Income Tax Act 1960.



For more information and  
further guidance on  
engaging with regulators see  
[Fintech Regulation in India](#)

[www.bfaglobal.com](http://www.bfaglobal.com)

[info@bfaglobal.com](mailto:info@bfaglobal.com)

[@bfaglobal](https://twitter.com/bfaglobal)



Cambridge  
**Centre  
for Alternative  
Finance**



UNIVERSITY OF  
CAMBRIDGE  
Judge Business School