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FINTECH LAWS IN INDIA UNDERSTANDING THE REGULATORY REGIME

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ABSTRACT

Fintech has revolutionized financial services globally, with an estimated transaction value of \$24 trillion in FY21-22. India has emerged as a leading fintech hub, home to over 7,000 start-ups and enjoying an 87% fintech adoption rate in 2021, higher than the global average. The market is projected to reach a \$1 trillion valuation by 2030, on the back of key sectors like digital payments, lending, wealth management and insurance technology. However, regulation remains fragmented across agencies like the RBI, IRDAI, SEBI, MCA and MEITY, posing hurdles for start-ups navigating compliance. This complex regulatory landscape, coupled with the lack of overarching fintech legislation, creates effectiveness challenges in balancing innovation aspirations with consumer protection priorities. This paper analyzes India's fintech regulations across domains, regulators and instruments. It assesses regulatory approaches towards key subsets like digital payments and lending models. The analysis also highlights pressure points illustrated by case studies like the Paytm controversy. Ultimately, the paper offers recommendations on optimizing policies – promoting fintech advancement whilst safeguarding user interests via prudent regulation calibrated to unique models and mindful of risks.

INTRODUCTION

India has an array of active fintech companies that operate in sectors including loans, payments (including P2C and P2P transfers), investments, personal finance, credit ratings, insurance, and regulation. India has more than 2,000 acknowledged fintech firms, making it one of the fastest-growing fintech sectors globally. The industry is projected to reach a value of over USD 150 billion by 2025. During the previous Financial Year, the fintech industry in India received a total financing of USD 8.53 billion via 278 agreements. India recorded more than 23 billion digital payments totalling INR 38.3 lakh crore (~USD 475 billion) at the end of the final quarter of the previous financial year. Due to the present and projected increase, digital payments are expected to make up the majority of all payments by 2026.¹⁴⁴³ However, such forecasts and trends should be seen with caution since they may often be exaggerated.

Currently, local businesses with international investment are the main participants in India's fintech sector. However, in recent years, there has been an increase in the number of foreign players entering the market, a trend that is projected to continue. The fintech sector in India is expected to experience significant growth in the coming years, especially in the payments sector, due to the rising internet usage among the Indian population and certain policy changes that may impact the industry.¹⁴⁴⁴

Despite some early challenges at the beginning of the worldwide COVID-19 outbreak, the Indian fintech sector maintained its growth momentum. During a recent interview, the Governor of the RBI referenced a paper and said that the rise in financial inclusion globally, together with the rapid digitization in India, may be attributed to the epidemic. As the globe returns to a state of normality, it would be

¹⁴⁴³ Rajeswari, P., and C. Vijai. "Fintech industry in India: the revolutionized finance sector." Eur. J. Mol. Clin. Med 8, no. 11 (2021): 4300-4306.

¹⁴⁴⁴ Joseph V, "Fintech Laws In India - A Primer" (Fin Tech - India, April 8, 2020) <https://www.mondaq.com/india/fin-tech/914612/fintech-laws-in-india---a-primer>

intriguing to see the effect on the expansion of the fintech sector in India. The heightened dependence on technology due to COVID-19 in the last two years, which has now diminished, may have a detrimental effect on the industry, particularly in some sub-sectors.¹⁴⁴⁵ Additional variables that might have a detrimental effect on the sector include the possibility of a global recession and the continuous geopolitical developments worldwide. Some assessments suggest that fintech is a resilient industry that might be crucial for India's economy to withstand a global crisis. One key element driving fintech expansion in India is the process of bringing in new consumers, facilitated by the wider availability of affordable internet services.¹⁴⁴⁶

Notable fintech trends that are seeing significant growth include BNPL (Buy Now, Pay Later) and other micro-credit possibilities. Notable trends from the past year include blockchain, open banking, growing collaboration between fintech and traditional banks, neo-banks, embedded finance, artificial intelligence (AI), and the metaverse. Embedded finance, particularly in technology-related businesses, is rapidly increasing and could significantly impact the fintech industry. India's upcoming regulations have already defined some entities as 'TechFin'. Digital payments have also shown a consistent rising trend. The Indian fintech sector is expected to reach USD 1 trillion in Assets Under Management (AUM) and USD 200 billion in revenue. However, it is important to note that industry players and promoters tend to inflate these forecasts for several reasons.¹⁴⁴⁷

RESEARCH OBJECTIVE

The objective of this research is to analyze the current regulatory framework for digital

payments and fintech in India. It aims to identify the key regulations, and regulatory bodies, and assess the adequacy and challenges of the existing regime in governing fintech innovation while protecting consumers.

RESEARCH QUESTIONS

1. What are the roles and jurisdictions of RBI, IRDAI, SEBI, MCA and MEITY over different areas of fintech?
2. What are the major policy initiatives taken by the Indian government to promote investments in fintech?
3. What are the major regulatory issues and challenges faced by fintech companies?

SCOPE OF THE RESEARCH

The scope of the research is focused on analyzing the digital payments and fintech regulatory regimes in India. It will cover the major regulations, regulators, policy initiatives and challenges faced by companies specifically in the payments sector. The study period will span the past 5-10 years to assess the evolution of fintech regulations. It will also highlight regulatory case studies like the Paytm crisis to illustrate the challenges for fintechs. Recommendations for policy reforms required to enable innovation while safeguarding consumer interests will be provided as well.

THE KEY LAWS AND REGULATIONS GOVERNING THE FINTECH SECTOR IN INDIA

FinTech is an abbreviation for financial technology, including any technology used to facilitate financial transactions or services, provided by any organisation. FinTech, in commercial and regulatory terms, refers to the technology used by financial service providers to revolutionise the conventional method of delivering services. enterprises like Paytm, PhonePe, RazorPay, MobiKwik, and PayU are categorised as fintech enterprises.¹⁴⁴⁸

¹⁴⁴⁵ Baporikar, Neeta. "Fintech challenges and outlook in India." In Innovative strategies for implementing FinTech in banking, pp. 136-153. IGI Global, 2021.

¹⁴⁴⁶ Bagga A, "Setting Up a FinTech Company in India - Complete Process by King Stubb & Kasiva" (King Stubb & Kasiva, November 17, 2022) <https://ksandk.com/finance/setting-up-a-fintech-company-in-india/>

¹⁴⁴⁷ Sachdev, N., and K. N. Singh. "Fintech Environment and funding activity in India." Vidyabharati International Interdisciplinary Research Journal 13, no. 1 (2021): 11-20.

¹⁴⁴⁸ Nathani, Sahil, Nayna Chakhiyar, and Shinki K. Pandey. "A Study on Consumers Perception towards Digital Payment System in India and Various Affecting Its Growth." *Issue 3 Int'l J.L. Mgmt. & Human.* 5 (2022): 1162.

The fintech business in India has seen significant innovation and expansion in recent years, facilitated by the rising internet and smartphone use. Fintech companies provide technology-driven financial services such as digital payments, online lending, wealth management, and insurance aggregation. Regulating a dynamic industry requires scrutiny to reconcile innovation with financial stability and consumer safety.

The regulatory framework for Indian fintech is divided among many authorities including the **“Reserve Bank of India” (RBI)**, **“Securities Exchange Board of India” (SEBI)**, **“Insurance Regulatory and Development Authority of India” (IRDAI)**, and **“Ministry of Electronics and Information Technology” (MeitY)**. Fintech goods and services are subject to legislation relevant to the industry, but greater progress is needed in areas such as data protection and consumer complaint resolution.¹⁴⁴⁹

1. PAYMENT FINTECHS

Entities providing digital payment services must get permission from the RBI under the **“Payments and Settlement Systems” (PSS) Act 2007** before starting operations. The PSS Act regulates several payment systems such as “prepaid payment instruments” (PPIs), money transfer services, and card networks. Relevant regulations include technological risk management, consumer protection measures, and data security requirements.

Securities broking and investment advising operations need licencing under the **“SEBI (Stock Brokers) Regulations 1992 and the SEBI (Investment Advisers) Regulations 2013”**, respectively. Insurance online aggregators, brokers, and agents must be licenced by the IRDAI regulations specific to their roles: **“Insurance Online Aggregators Regulations 2017, Insurance Brokers Regulations 2018, and**

Registration of Corporate Agents Regulations 2015.”¹⁴⁵⁰

The Payment and Settlement Services Act of 2007 requires the Reserve Bank of India (RBI) to grant permission to non-bank payment system operators before launching such services. PSOs include payment service providers, card networks, and aggregators of payments. The RBI has issued additional regulations, circulars, and directions for these operators, including the Master Directions on Prepaid Payment Instruments 2021 and the Guidelines on Regulation of Payment Aggregators and Payment Gateways. Non-bank lending and factoring entities must acquire licencing as NBFCs. The “Unified Payments Interface” (UPI) enables customers to link their bank accounts to a single mobile app, facilitating the consolidation of financial services, easy fund flow, and the ability to pay merchants. The “Bharat Interface for Money” (BHIM) program facilitates quick, secure payments using UPI, allowing direct bank payments by entering their UPI ID or scanning their QR code.¹⁴⁵¹

The National Payments and Settlements Infrastructure (NPCI) was established in 1956 as a joint venture between the Reserve Bank of India and the Indian Banks' Association to improve India's retail payment and settlement systems. The core promoter group includes “State Bank of India, Punjab National Bank, Canara Bank, Bank of Baroda, Union Bank of India Limited, Bank of India Limited, ICICI Bank Limited, HDFC Bank Limited, Citibank N. A., and Hong Kong and Shanghai Banking Corporation.” In 2016, 56 member institutions participated in the ownership round. Currently, UPI integration into customer-facing online platforms or mobile applications is limited to banks, but banks and non-banks can collaborate to fuel UPI

¹⁴⁴⁹ Vijay K and others, “First-Step Analysis: Fintech Regulation in India” (Lexology, July 28, 2023) <https://www.lexology.com/library/detail.aspx?g=1d979a83-7614-4202-80c7-1f0ffae11a9e>

¹⁴⁵⁰ Ray, Saon, Vasundhara Thakur, and Kuntala Bandyopadhyay. “India's insurance sector: Challenges and opportunities.” (2020).

¹⁴⁵¹ “UPI Transactions: New Regulations And Changes That Come Into Effect From Today” (NDTV.com) <https://www.ndtv.com/feature/upi-transactions-new-regulations-and-changes-that-come-into-effect-from-today-4779347#:~:text=The%20daily%20payment%20limit%20for,the%20use%20of%20UPI%20payments>

payments through technology, design, or operation.

The NPCI announced the UPI Procedural Guidelines and the UPI Operating and Settlement Guidelines in October 2019.¹⁴⁵² These guidelines outline the standards that a business must meet to participate in UPI as a payment systems provider. The standards specify the eligible participants in the UPI, including payment service providers, their duties, authorised transactions, and obligations. The guidelines also provide standards for the settlement of UPI transactions.

2. INCORPORATED FINTECHS

Fintech enterprises, as corporate organisations, are required to adhere to the Companies Act 2013 for KYC regulations, record-keeping obligations, and financial statement submissions.

The Companies Act, 2013 outlines three primary business structures: sole proprietorship, Limited Liability Partnership (LLP), and Private Limited Company (PLC). When starting a business, individuals should assess these options based on the organization's size, vision, and mission to determine the most suitable structure for raising funds and maximising profitability. Subsequently, they should incorporate and register the business in accordance with legal regulations.¹⁴⁵³

People often wonder how to register a FinTech company's GST ID. Obtaining a unique "Goods and Service Tax Identification" (GSTI) is essential for a firm to comply with the Goods and Service Tax registration requirements. The GSTI, created by a Tax Identification Number (TIN), is crucial for tax identification and registration in the indirect taxation system. FinTech firms are required to comply with this regulation because

of the large amount of data they create about consumer payments and sales.¹⁴⁵⁴

Some of the documents required during the time of incorporation may include:¹⁴⁵⁵

- The firm's ownership of the FinTech's intellectual property is outlined in the Partnership Agreement/AOA IPR Licencing Agreement.
- Protecting Personal Information: The Information Technology Act of 2000 (IT Act) establishes rules for the handling of sensitive data, including financial data, throughout its collection, storage, transmission, and disclosure. Companies involved in financial technology (FinTech) must adhere to the rules that govern the handling of customers' personal information and financial data. Company privacy policies would therefore guarantee compliance with such standards.
- Service terms: Since most financial technology companies conduct their activities online, it is customary for such services to include a disclaimer and an agreement to abide by their terms.
- Confidentiality and other vendor agreements Employment contracts

3. CONSUMER PROTECTION

The Consumer Protection Act 2019 outlaws unfair trading practices, such as the unauthorised sharing of customers' sensitive data. The Information Technology Rules 2011 include restrictions that prohibit fintech platforms from disclosing users' sensitive personal information without authorization. These restrictions are designed to protect consumers' personal and financial information.

Before the enactment of the CPA 2019, customer safety in online banking was dependent on

¹⁴⁵² Lakshmi, K. Krithiga, Himanshu Gupta, and Jayanthi Ranjan. "UPI based mobile banking applications—security analysis and enhancements." In 2019 Amity International Conference on Artificial Intelligence (AICAI), pp. 1-6. IEEE, (2019).

¹⁴⁵³ "FinTech Regulations: Need, Superpowers and Bibliometric Analysis - ProQuest" <https://www.proquest.com/openview/2f45a4cfdc181dc738c1eece8d11c69/1?pq-origsite=gscholar&cbl=54903>

¹⁴⁵⁴ Rao P, "Fintech Startups In India - 8 Regulations & Compliances" (King Stubb & Kasiva, August 3, 2022) <https://ksandk.com/regulatory/fintech-startups-in-india/>

¹⁴⁵⁵ "Documents Required for Company Registration" (TaxGuru, February 20, 2024) <https://taxguru.in/company-law/documents-required-company-registration.html>

many laws from different agencies. The RBI released directives on customer due diligence, grievance resolution, and electronic banking security. Specialised legislation such as the IT Act of 2000 and the Banking Regulation Act of 1949 dealt with issues related to data privacy and electronic transactions. Yet, these policies were inconsistent and not focused on the needs of consumers, resulting in gaps in protection.

The Consumer Protection Act 2019: A New Paradigm¹⁴⁵⁶

The CPA 2019 marked a significant shift, enacting a comprehensive framework for consumer protection across all sectors, including financial services. Key provisions relevant to online banking include:

- **Enhanced consumer rights:** The Act expands consumer rights beyond traditional notions of safety and fair pricing. It enshrines rights to information, informed consent, choice, grievance redressal, and compensation for unfair practices.
- **Liability for defective services:** Banks are now liable for services failing to meet promised standards, including in the online sphere. This incentivizes them to invest in secure systems and robust customer service.
- **Grievance redressal mechanisms:** The Act establishes a three-tier system for grievance redressal, culminating in the Central Consumer Protection Authority (CCPA) for unresolved disputes. This provides consumers with a more accessible and streamlined platform for seeking redressal.
- **Penalties for violations:** Stringent penalties, including imprisonment and hefty fines, deter unfair practices and promote responsible conduct by banks.

Impact and Challenges¹⁴⁵⁷

The CPA 2019 has ushered in a new era of consumer protection in online banking. Consumers are now empowered with clearer rights and avenues for seeking redressal. The Act has also compelled banks to strengthen their compliance measures and security protocols. However, challenges remain:

- **Awareness and accessibility:** Many consumers, especially in rural areas, are unaware of their rights under the Act or face difficulties accessing the redressal mechanisms.
- **Implementation:** Effective implementation of the Act hinges on the CCPA's capacity and state-level consumer forums' efficiency.
- **Technology-driven challenges:** Emerging technologies like artificial intelligence and big data pose new risks to privacy and security, requiring continuous adaptation of the regulatory framework.

Major changes in the definition of "consumer" under the Consumer Protection Act, 2019 are as under;¹⁴⁵⁸

- Online buyers.
- The 2019 Act also includes the endorsement of products and services, often carried out by celebrities.
- Endorsers now have an added responsibility, along with manufacturers and service providers, to avoid incorrect or misleading ads.
- Unlike the 1986 Act, the definition of "goods" has been revised to include "food" as defined in the Food Safety and Standards Act, 2006. This would also include the rapidly increasing number of

¹⁴⁵⁶ Poorna, S. Jothi. "a Critical Analysis of Consumer Protection Act 2019." *Supremo Amicus* 15 (2020): 283.

¹⁴⁵⁷ Ghosh, Mrinal, and Kabin Sarma. "UNDERSTANDING CONSUMER RIGHTS AND RESPONSIBILITIES THROUGH CONSUMER PROTECTION ACT 2019." *International Journal of Management (IJM)* 11, no. 11 (2020).

¹⁴⁵⁸ Kapoor, Sheetal. "Consumer Protection Act, 2019: A New Milestone in Empowering Consumers." *Yojana* (2019): 53.

food delivery platforms under the 2019 Act.

- The term of "services" in the 2019 Act has been expanded to include "telecom" in order to include telecom service providers. However, it is noteworthy that this inclusion has not been explicitly classified as "telecommunication service" as outlined in the Telecom Regulatory Authority of India Act, which typically include internet, cellular, and data services.
- The 2019 Act includes a notable provision called "product liability," which holds manufacturers and sellers accountable for paying consumers for any damage caused by faulty goods or services.
- Another recently adopted idea is "unfair contracts," designed to safeguard customers against one-sided and irrational arrangements that heavily benefit manufacturers or service providers.

The definition of "unfair trade practices" now encompasses misleading electronic advertising, failure to accept returns of faulty goods or inadequate services, and failure to provide a refund within the specified time frame or within thirty days if no time frame is specified. It is now considered a crime to reveal any personal information that was supplied in confidence and collected during a transaction.

4. DATA PRIVACY

The *IT Act of 2000, together with its "Reasonable Security Practices and Sensitive Personal Data Rules,"* mostly regulate data privacy in the fintech sector at present. Despite being insufficient for the industry, they require security measures and permission regulations for the collection and processing of personal data by fintech platforms. More stringent data protection requirements are expected.¹⁴⁵⁹

The Indian Constitution does not clearly guarantee the fundamental right to privacy.

Courts have construed the right to privacy as a fundamental aspect of other fundamental rights like freedom of speech and expression under "Article 19(1)(a) and the right to life and personal liberty under Article 21 of the Indian Constitution." The Fundamental Rights in the Constitution of India are subject to reasonable limits as specified in Article 19(2) that might be imposed by the State. In the case of "Justice K S Puttaswamy (Retd.) & Anr. vs. Union of India and Ors.," the constitution bench of the Supreme Court established the Right to Privacy as a fundamental right, subject to some permissible restrictions.¹⁴⁶⁰

The Indian Information Technology Act of 2000 categorises hacking as a serious offence under Section 66. Hacking is tacitly acknowledged as a criminal offence related to breaching knowledge security. The relevant government (central/state) has the authority to designate any 'computer', 'computer system', or 'computer network' as a protected system. Someone who gains access to the 'protected computer system' against the law might face a 10-year prison sentence and a substantial fine.

The Information Technology Act, of 2000, also known as the "IT Act," aims to legally recognise transactions conducted through electronic data interchange and electronic communication, commonly known as "electronic commerce." This involves using electronic methods instead of paper-based ones to communicate and store information, enabling electronic filing of documents with government agencies.

Indian banks are required to comply with data privacy regulations outlined in the *"Information Technology Act, of 2000, the Prevention of Money Laundering Act, of 2002, and guidelines from the Reserve Bank of India (RBI). Once the Digital Personal Data Protection Act, 2023 (DPDP Act)"* is implemented and its regulations (DPDP Rules) are released, banks and other

¹⁴⁵⁹ "INDIA: An Introduction to FinTech Legal Law | Chambers and Partners" <https://chambers.com/content/item/4784>

¹⁴⁶⁰ "Fintech Laws and Regulations, 2021, Fifth Edition - Azb" (azb, September 13, 2021) <https://www.azbpartners.com/bank/fintech-laws-and-regulations-2021-fifth-edition/>

financial institutions will undergo a significant change in their data processing procedures.

Implications for Indian banks regarding the application of these provisions are significant and multifaceted:¹⁴⁶¹

1. Consent for Data Processing:

- Banks must individually notify both existing and new customers about data processing.
- Consent is triggered not only by account-based relationships but also by any processing of identifiable personal data. This includes various services like visitor information processing, risk management, and product development.
- Data sharing within a bank's group is permissible with specific consent for the intended purposes.

2. Outsourcing to Data Processors:

- Banks bear primary responsibility as Data Fiduciaries for personal data processing by intermediaries such as KYC verification agents and payment system operators.
- Responsibility extends to sub-agents under the DPDP Act, though joint liability provisions are not yet established.

3. Data Breach Reporting:

Immediate reporting of personal data breaches to both affected customers and the Data Protection Board is mandatory under the DPDP Act. Failure to comply can lead to substantial penalties.

4. Internal Policies:

- Grievance redressal mechanisms need to explicitly address personal data complaints.
- Special policies for products involving children's data are necessary.
- A separate mechanism should be established for handling data correction and erasure requests.

5. Cross-Border Data Transfer:

Transfer of customer data outside India for specified purposes requires consent and compliance with DPDP Act specifications.

6. Co-Branding Arrangements:

Indian banks are considered Data Fiduciaries, and card issuers are deemed Data Processors in co-branding arrangements. Compliance with both the DPDP Act and RBI directions is essential.

7. Use of AI:

Banks incorporating AI, such as large language models, must ensure proper consent for personal data use unless the data is public or voluntarily provided for AI purposes.

These implications necessitate comprehensive policy adjustments and procedural changes within Indian banks to ensure compliance with the DPDP Act and related regulations.

5. RBI REGULATIONS

Fintech lenders must get clearance from the RBI to begin operations as NBFCs, while also satisfying eligibility requirements related to capital sufficiency and risk management skills. RBI rules oversee lending rates, customer grievance redressal processes, and adherence to the fair practices code. The RBI oversees new specialised banks like small financing banks and payment banks, implementing tailored capital and coverage regulations to promote financial inclusion.

Payment intermediaries are entities that collect funds from customers for online purchases and then transfer the money to the merchants as payment for the goods or services bought by the customers. Payment intermediaries do not accommodate transactions that are comparable to a delivery versus payment arrangement. In November 2009, the RBI released the 2009 EPT Directions under section 18 of the P&SS Act. These directions were put in place to safeguard consumers' interests and make sure that intermediaries account for their

¹⁴⁶¹ Srivastava A, Srivastava A and Maheshwari R, "Fintech Laws and Regulations 2023 | India" (GLI - Global Legal Insights - International legal business solutions, September 12, 2023) <https://www.globallegalinsights.com/practice-areas/fintech-laws-and-regulations/india#:~:text=The%20key%20regulatory%20bodies%20that,market%20and%20foreign%20exchange%20market>

payments correctly and get them to merchants quickly.¹⁴⁶²

The 2009 EPT Directions define intermediaries as businesses that receive payments from clients using electronic or online means and transfer these amounts to merchants. Financial institutions are prohibited from maintaining or operating accounts for collecting payments from merchants' customers via intermediaries, which must be treated as internal bank accounts. These accounts must be audited and certified by the RBI every quarter. Transfers from other banks into the intermediary's primary bank account, credits for payments made by various persons for the purchase of goods or services, and transfers returned for failed or disputed transactions are allowed under the 2009 EPT Directions. The intermediary's primary bank account may be debited for merchant and service provider payments, transfers to other banks according to a pre-arranged arrangement, refunds for disputed or failed transactions, and commissions at certain rates.

The RBI released the Payment Aggregators and Payment Gateways Guidelines on March 17, 2020, and will be in effect starting April 1, 2020. Payment Gateways provide the necessary technical infrastructure for online payment transactions, while Payment Aggregators connect merchants and acquirers. Current PAs must have a net worth of Rs. 15,00,00,000 by March 31, 2021, and Rs. Prospective PAs must have a net worth of at least Rs. 15,00,00,000 before seeking permission, and their net worth must increase to Rs. 25,00,00,000 by the end of the third fiscal year after gaining authorization.¹⁴⁶³

Non-bank payment aggregators (PAs) are required to maintain an escrow account with a scheduled commercial bank for all received payments. They can only store the amount in

one bank simultaneously. The PAPG Guidelines specify when payments can be made to merchants and what funds can be deposited into the escrow account. Payments from PAs to merchants must be made within one day after the merchant notifies the intermediary of the shipment, confirms delivery, or if the merchant decides otherwise. PAs can use the merchant's money or their own funds to pre-fund the escrow account, with the merchant having a beneficial interest in the pre-funded amount. Intermediaries, including non-bank PAs and PGs, are not required to obtain a license from the RBI under the 2009 EPT Directions. However, PAs need to be Indian businesses registered under either the Companies Act of 1956 or 2013.¹⁴⁶⁴

6. INSURANCE AGGREGATORS

InsurTech companies that enable clients to compare, choose, and buy insurance online must possess an insurance broker or corporate agent licence from IRDAI. Recent collaborations between insurers and fintech platforms have made it easier to distribute and sell insurance products directly to retail customers. Utilising technology to provide a revolutionary insurance service is known as InsurTech. Key InsurTech companies in India include Acko, Policy Bazaar, and Digit Insurance.

The IRDAI, the insurance regulatory body in India, has released a series of rules and regulations to oversee InsurTech in India. They are:¹⁴⁶⁵

"Guidelines on insurance repositories and electronic issuance of insurance policies dated May 29, 2015; Insurance Regulatory and Development Authority of India (Issuance of e-Insurance Policies) Regulations, 2016; and Guidelines on Insurance e-commerce dated March 9, 2017."

Insurance policy repositories are regulated by the Guidelines for Repositories and Electronic

¹⁴⁶² Legal C, "Fintech Laws In India: Understanding The Regulatory Regime" (Fin Tech - India, October 9, 2023) <https://www.mondaq.com/india/fintech/1369804/fintech-laws-in-india-understanding-the-regulatory-regime>

¹⁴⁶³ Frolova, Evgenia E. "Legal regulation of Internet banking in India." *RUDN Journal of Law* 23, no. 3 (2019): 351-374.

¹⁴⁶⁴ Rawandale, C. J., Manish M. Deshpande, and Vinayak P. Rajadhyaksha. "Banking on online banking." In *2018 International Conference on Advances in Communication and Computing Technology (ICACCT)*, pp. 240-244. IEEE, 2018.

¹⁴⁶⁵ Sarkar, Swapan. "The Evolving Role of Insurtech in India: Trends, Challenges and The Road Ahead." *The Management Accountant Journal* 56, no. 12 (2021): 30-37.

Policy Issuance. A licensed firm approved by IRDA can be used as an Insurance Repository (IR) to store insurance policy data on behalf of insurers. To issue and manage e-insurance policies, insurers must use an IR and enter into service-level agreements with at least one IR. A valid registration certificate from IRDA is required for any IR to function, with a three-year validity. The internal auditor supervises comprehensive internal monitoring, assessment, and evaluation of systems and controls. An external system audit company authorized by IRDA must examine the industry's controls, systems, processes, and protections annually. The Insurance Regulator maintains records of electronic insurance accounts, including policyholders, nominees, assignees, beneficiaries, and endorsements in electronically issued policies. Each record is assigned a unique number and the date of assignment. The IR will electronically hold various insurance policies, including general and life insurance plans.

- CDSL Insurance Repository Limited.
- Karvy Insurance Repository Limited.
- National Insurance-policy Repository by NSDL Database Management Limited.
- CAMS Insurance Repository Services Limited.

The e-insurance Policies Regulations mandate issuers to provide electronic insurance policies to policyholders, subject to certain annual premiums and insured amounts. Different types of insurance policies, such as pure term, non-pure term, pensions, and individual health, are determined by different legislation. Insurance plans can be offered directly or via agents, and an electronic insurance account is mandatory for policyholders. In some cases, insurers must provide physical policies. The e-insurance Policies Regulations outline the process of supplying electronic insurance policies. The Insurance e-Commerce Guidelines allow the creation of Insurance Self-Network Platforms (ISNPs) for the sale and administration of insurance policies, with a code of conduct and

procedures for establishing an ISNP to engage in insurance e-commerce in India.¹⁴⁶⁶

The IRDA implemented the *“Insurance Regulatory and Development Authority of India (Insurance Web Aggregators) Regulations, 2017”* to oversee and regulate web aggregators as insurance intermediaries who operate websites to facilitate insurance prospects in comparing prices and accessing information about products from various insurers. These insurance web aggregators must acquire a registration certificate from the IRDA to conduct their operations. Their operations include showing product comparisons on insurance web aggregator websites, selling insurance online or via telemarketing, and other marketing efforts.¹⁴⁶⁷

CONCLUSION

The Indian fintech landscape presents a promising picture, fueled by growing internet penetration, financial inclusion initiatives, and a tech-savvy population. With a projected valuation of USD 1 trillion in AUM and USD 200 billion in revenue by 2025, the industry demonstrates immense potential to revolutionize financial services and contribute significantly to India's economic growth. However, despite its remarkable growth trajectory, the Indian fintech sector faces several challenges that require proactive and collaborative solutions.

Regulatory Landscape: While the Consumer Protection Act 2019 serves as a significant step towards safeguarding consumer rights, concerns regarding awareness, accessibility, and implementation remain. Ensuring effective enforcement of existing regulations and adapting them to emerging technologies like AI and blockchain will be crucial. Further, streamlining the regulatory framework across

¹⁴⁶⁶ Mallikarjun Dr, Goda. "ROLE OF IRDAI IN PROMOTING E-COMMERCE IN INSURANCE SECTOR WHILE ENSURING POLICYHOLDER PROTECTION." *International Journal on Consumer Law and Practice* 10, no. 1 (2022): 8.

¹⁴⁶⁷ Team T, "IRDA (Insurance Web Aggregators) Regulations, 2017" (TaxGuru, January 4, 2020) <https://taxguru.in/corporate-law/insurance-regulatory-development-authority-india-insurance-web-aggregators-regulations-2017.html>

various authorities like RBI, SEBI, and IRDAI will enhance transparency and predictability for fintech players.

Data Privacy and Security: Data breaches and the potential misuse of customer data pose significant risks for the industry. The upcoming Digital Personal Data Protection Act (DPDP Act) is expected to establish stricter data privacy regulations, and compliance will require significant adjustments from banks and fintech entities. Strengthening cybersecurity infrastructure and promoting responsible data governance practices are also essential to building trust and confidence among consumers.

Financial Inclusion: Bridging the digital divide and ensuring financial inclusion for remote and underserved communities remains a critical challenge. Expanding access to affordable internet services and promoting digital literacy are crucial initiatives. Additionally, developing customized financial products and services catering to the specific needs of these segments can accelerate their integration into the formal financial system.

Consumer Awareness and Education: Empowering consumers with knowledge about their rights, available financial products, and potential risks associated with fintech services is essential. Financial literacy programs and awareness campaigns targeted at diverse communities can enhance consumer protection and promote responsible financial behavior.

Collaboration and Innovation: Fostering collaboration between fintech startups, traditional financial institutions, and regulatory bodies can accelerate innovation and address pressing challenges. Open banking initiatives and sandbox environments can provide fertile ground for experimenting with new technologies and exploring innovative solutions.

Global Landscape: As Indian fintech companies seek to expand their international reach, navigating diverse regulatory environments and

complying with global standards will be critical. Collaborations with foreign fintech players and participation in international forums can facilitate knowledge sharing and cross-border partnerships.

In conclusion, while the Indian fintech industry presents exceptional opportunities for financial inclusion, economic growth, and technological advancement, addressing the aforementioned challenges is paramount. Concerted efforts from policymakers, regulators, industry players, and civil society organizations are necessary to navigate the evolving landscape and create a sustainable, inclusive, and consumer-centric future for Indian fintech.