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CONSUMER PROTECTION *and* PAYMENT WALLETS

A Case for
Tech-based
Intervention

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A. INTRODUCTION

1. Technological innovations enable businesses to change the way they operate and deliver products and services to consumers. The ever-evolving financial sector has in the recent past witnessed the influx of innovative, technology-driven financial products and services, commonly referred to as 'FinTech'. While such technologies have the potential to create opportunities for businesses and enable promotion of financial inclusion, particularly relevant in emerging markets and developing economies,¹ they may also create new risks for individual financial institutions, consumers, as well as the financial system as a whole.² The consumer protection implications of FinTech assume importance in light of the financial inclusion initiatives of the Government that amongst other things seek to cover vulnerable sections such as low-income groups. For such initiatives to have a meaningful and lasting impact on the lives of the people, they should be complemented with an equally robust consumer protection framework to protect consumers from potential risks associated with digital financial services.
2. Just as emerging technologies are helping in rapid evolution of the FinTech ecosystem, such technologies can also empower the regulators to upgrade their existing supervisory infrastructure and help in exploring new approaches to regulation. Considering the challenges that financial sector regulators / supervisors face in market conduct supervision, such regulators/ supervisors in several jurisdictions are leveraging technological innovations to increase the efficiency of their supervisory approaches and processes. While such interventions are relevant for regulating financial services in general, they are likely to be most readily adaptable for FinTech.
3. This Concept Paper explores the possibilities of integrating technological innovations in regulatory processes pertaining to payment wallets / prepaid payment instruments ("**PPIs**") for the purposes of addressing consumer risks. We understand that the Reserve Bank of India ("**RBI**") has renewed its focus on developing a robust consumer protection framework for users of digital payments including PPIs by issuing a circular on improving consumer protection for users of PPIs issued by non-banks and establishing a digital ombudsman to handle complaints from users of digital payments (discussed in detail later). The authors are hopeful that this Concept Paper will help in sharpening that intervention further.

B. THE DIGITAL PAYMENTS LANDSCAPE IN INDIA

1. The digital payments landscape in India is witnessing a steady growth. The RBI notes that since 2012-13, all segments of electronic payments, particularly retail payments, have shown a healthy growth in terms of both volume and value of usage.³ In fact, the share of electronic transactions⁴ in the total volume of retail payments⁵ increased to 92.6% in 2017-18, from 88.9% in 2016-17 with a corresponding reduction in the share of paper based clearing instruments⁶ from 11.1% in 2016-17 to 7.4% in 2017-18.⁷ The share of transactions carried through PPIs in the total volume of retail payment transactions increased from 18.04% in 2016-17 to 21.94% in 2017-18.⁸
2. PPIs, a popular mode of electronic payments, are payment instruments that facilitate the purchase of goods and services, including financial services, remittance facilities, etc., against the value stored on such instruments.⁹ PPIs issued in India are classified under three heads – (a) closed system PPIs; (b) semi-closed system PPIs; and (c) open system PPIs. PPIs may be issued as cards or digital wallets.¹⁰ While banks may issue semi-closed and open PPIs subject to approval from RBI, non-bank entities can issue only semi-closed PPIs, subject to authorisation from RBI under the Payment and Settlement Systems Act, 2007 (“PSS Act”).¹¹
3. An overview of the different types of PPIs is set out in *Figure 1* below:

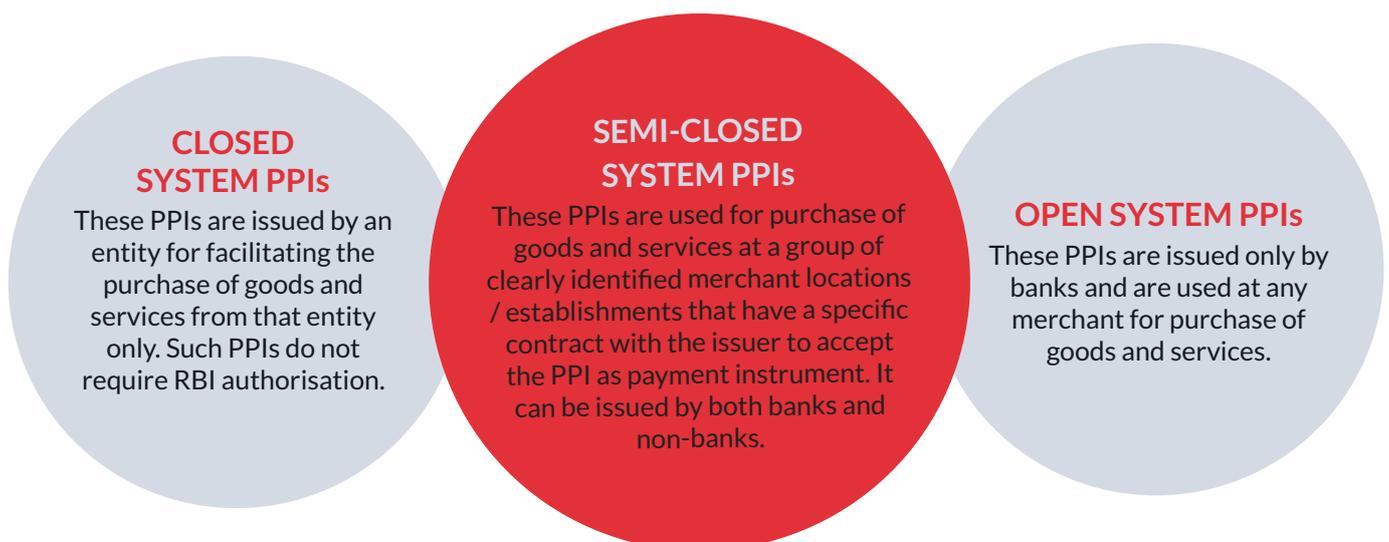


Figure 1: Types of PPIs

4. As on 29 January 2019, there are 48 PPIs (issued by non-bank entities) that have been authorised to operate under the PSS Act¹² by RBI. During 2017-18, PPIs recorded a volume of about 3.5 billion transactions valued at INR 1,416 billion.¹³
5. Set out below is a snapshot of the growth in the volume and value of transactions in PPIs in the last five years:¹⁴

Volume & Value of transactions by PPIs

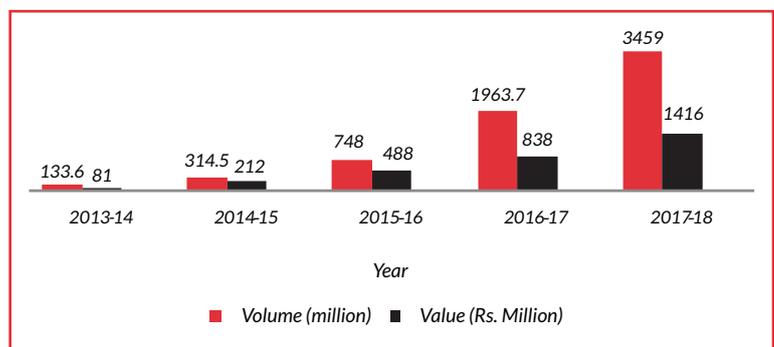


Figure 2: Snapshot of the Volume and Value of transactions by PPIs

From the aforesaid, it is evident that there has been a steady rise in the volume and value of transactions of PPIs.

6. While payment services have made life easier for consumers and businesses, they have also exposed them to the possibility of frauds and unauthorized transactions.¹⁵ As the PPI sector grows in size, depth, and complexity, consumer protection assumes a priority. This must be viewed in the light of the fact that the grievances relating to the digital mode of financial transactions accounted for 19% of the total complaints during 2016-17.¹⁶ This has gone up to 28% till end of June 2018.¹⁷

Digital Payments & Risks

Consumer confidence is a key determinant for ensuring growth of the digital payment industry. While fraud in the digital payments space may happen for various reasons, it tends to dent consumer confidence.

Instances of frauds / unauthorised transactions involving digital modes of transactions lately, include:

1. *Phishing Fraud:* Fraudsters dupe customers through SMS / emails / phone calls to provide sensitive information such as PINs / passwords that may result in misappropriation of funds from wallets.

In Lucknow, hackers siphoned large amounts of money from around 1500 customers of an e-commerce platform who were expecting their refunds. They complained to the company that the refund amount had not been credited to their bank accounts. It was found that the hackers got hold of phone numbers of customers, who had initially paid cash on delivery. They then called them pretending to be officials of the e-commerce platform and asked the customers for the OTP they would receive from the company. On receipt of the OTPs, the hackers would add their own e-wallet details to the customer's profile and route the refunds to these accounts. (Source: The Indian Express, 05 September 2018).

2. *Access to wallet through unauthorised SIM swap:* Fraudsters may impersonate or obtain the SIM of the customer through unauthorised means thereby gaining access to the wallet of the customer.

A mobile repairer sent money from a payment app which was installed in the phone given to him for repairing (without the SIM) duping the customer of INR 91,000. (Source: India Today, 05 November 2018).

By presenting fake documents of bank customers, the accused obtained duplicate SIM cards of mobile numbers registered with the bank. Once they had access, the money was transferred using mobile banking to different payment wallets of banks and then withdrawn from ATMs. (Source: Business Standard, 05 November 2018).

3. *Benefits through misconduct:* A person/ customer may discover product or application flaws that can benefit him in a specific scenario and he repeatedly stimulates the same scenarios to exploit these limitations. For e.g. transaction failures for specific scenarios resulting in the wallet/ account getting credited without corresponding debit from other side.



Certain traders were duped of sums amounting to INR 20,00,000 by the fraudsters who sent fake 'payment success' messages to their registered mobile numbers. The messages were not sent from the server of the relevant wallet, but from their fake interface. (Source: ETtech, 24 April 2018).

A gang was found defrauding a local store owner and an e-wallet firm of INR 28,00,000. The fraudsters had shown payment transaction of customers who do not use e-wallets, by creating multiple e-wallet accounts using different mobile numbers. On showing that payments were made from different e-wallets they got 10% cash back benefits, 6% from the e-wallet firm and 4% from the local store. (Source: Hindustan Times, 19 July 2018).

There have been instances where even after payment is made, the same does not reflect in the accounts due to technical reasons such as delay in servers etc. Scared of losing money, people call up customer care numbers which they find online and most of which are hacked or are fake. In a few minutes they receive calls from the number asking for bank details and the money is siphoned. (Source: Times of India, 18 December 2018).

**The above mentioned instances are based on news reports and have not been independently verified by us.*

Box 1: Fraud risks relating to PPIs¹⁸

7. The growing trend and increasing complexity of complaints of digital financial transactions have also caught the attention of the RBI. Keeping this in mind along with the emergence of non-bank service providers in the digital payment space, RBI in its Annual Report (2017-18), indicated that it will be involved in initiatives for consumer protection in the area of financial transactions, especially by leveraging technology. RBI's recent circular dated 04 January 2019¹⁹ ("**RBI Circular**") which has laid down various consumer protection measures for non-bank PPIs (as discussed below) also indicates that protection of consumers of PPIs is a major concern. The RBI Circular comes into effect from 01 March 2019.
8. Notably, another proposal as highlighted in the Annual Report (2017-18) of RBI relevant from a consumer protection perspective in digital transactions is setting up of an ombudsman scheme to handle complaints arising from digital transactions.²⁰ Pursuant to this, on 31 January 2019, the RBI launched the Ombudsman Scheme for Digital Transactions, 2019²¹ ("**DT Ombudsman Scheme**") with a view to provide a dedicated grievance redressal mechanism for complaints relating to deficiency of services by 'system participants' (other than a bank) participating in a payment system.²²

C. CONSUMER PROTECTION FOR PPIs – REGULATORY FRAMEWORK

Existing Framework

1. The PSS Act mandates authorisation by RBI for a person to commence or operate a payment system.²³ Since closed system PPIs cannot be used for payments or settlement for third-party services, the issuance and operation of such PPIs is not classified as payment systems requiring approval/authorisation by the RBI.
2. While granting an authorisation under the PSS Act, RBI must amongst other things, have regard to the interests of consumers, including the terms and conditions governing their relationship with the PPI issuer.²⁴ Pursuant to its powers under the PSS Act,²⁵ RBI has issued the RBI (Issuance and Operation of Prepaid Payment Instruments) Directions, 2017 (“PPI Master Directions”).²⁶
3. The PPI Master Directions set out a framework for regulation and supervision of bank and non-bank entities that have been approved/authorised by RBI (as may be applicable) to issue PPIs. Amongst other things, it deals with issues pertaining to consumer protection and grievance redressal framework for PPI issuers. It mandates PPI issuers to put in place a formal, publicly disclosed customer grievance redressal framework. This also includes designating a nodal officer to handle the customer complaints/ grievances, the escalation matrix and turn-around-time for resolution of complaints.
4. The PPI Master Directions mandate that the grievance redressal policy of PPIs must *inter-alia* meet the minimum requirements set out below:²⁷
 - (a) Clear indication of customer care contact details, including details of nodal officials for grievance redressal on the website, mobile wallet apps, and cards.
 - (b) Specific complaint numbers for the complaints lodged along with the facility to track the status of the complaint by the customer must be provided.
 - (c) PPI issuers must initiate action to resolve any customer complaint/grievance expeditiously, preferably within 48 hours and resolve the same in not later than 30 days from the date of receipt of such complaint/grievance.
5. Further, non-bank PPI issuers are mandated to report regarding the receipt of complaints and action taken status thereon in a specified format²⁸ on a quarterly basis (by the 10th of the following month) to the respective Regional Office of Department of Payment and Settlement Systems (“DPSS”), RBI. On the other hand, banks must submit the



same report to DPSS, Mumbai Regional Office, RBI. Notably, under this report, PPI issuers are *inter-alia* required to disclose the number and type of complaints received, the complaints resolved and complaints pending at the end of the reporting period.

6. In case of PPIs issued by banks, customers have recourse to the Banking Ombudsman Scheme for grievance redressal.²⁹ Since no such ombudsman existed for grievance related to PPIs issued by non-banks, RBI recently launched the DT Ombudsman Scheme.
7. The rise in digital transactions necessitates a robust consumer protection framework for digital payments. This assumes significance in view of the unauthorised transactions / frauds reported in case of such digital transactions as discussed above. Recognising this, RBI's policy direction is moving towards strengthening the customer protection framework for PPIs issued by non-banks, as is evident from the RBI Circular and the DT Ombudsman Scheme.
 - (a) *RBI Circular:* The RBI Circular seeks to bring all customers of PPIs (whether issued by banks or non-banks) to the same level with regard to electronic transactions made by them. The RBI Circular extends the RBI's extant guidelines on limiting customer liability in respect of unauthorised electronic transactions involving PPIs issued by banks to the users of PPIs issued by non-banks.³⁰ Amongst other things, it provides for zero liability of customers when there is contributory fraud / negligence / deficiency on the part of the PPI issuer. The burden of proving customer liability in case of unauthorised electronic payment transactions will lie on the PPI issuer.

Further, taking into account the risks arising out of unauthorised debits to PPIs owing to customer negligence / PPI issuer negligence / system frauds / third-party breaches, the RBI Circular requires PPI issuers to clearly define the rights and obligations of customers in case of unauthorised payment transactions in specified scenarios. They are required to formulate / revise their customer relations policy, with approval of their board of directors. This policy must cover aspects of customer protection, including customer liability in cases of unauthorised electronic payment transactions.

More importantly, the RBI Circular has mandated PPIs to provide a direct link for lodging of complaints, with specific option to report unauthorised electronic payment transactions on its mobile app / home page of their website / any other

evolving acceptance mode.

- (b) *DT Ombudsman Scheme*: This scheme seeks to provide a dedicated grievance redressal mechanism for complaints relating to deficiency of services by ‘system participants’ (other than a bank) participating in a payment system. There is no pecuniary jurisdictional limit provided for the ombudsman to decide on matters listed in the DT Ombudsman Scheme. Pertinently, the complainant is required to first approach the system participant prior to approaching the ombudsman.

The ombudsman of digital transactions shall, to the satisfaction of the parties involved, dispose of the complaint through: (i) settlement by agreement between parties; or (ii) conciliation and mediation between parties; or (iii) passing an award as per the provisions of the DT Ombudsman Scheme. Till date, 21 Ombudsman for digital transactions have been appointed by the RBI.³¹

A review of the grievance redressal framework of a few bank and non-bank PPI issuers³² indicates that most of these entities have created a three or four tier procedure / escalation matrix for resolution of complaints with specified timelines for each level. Typically, the total resolution period of complaints throughout all levels of the escalation may vary between 2-60 days. While the PPI Master Directions provide that all consumer complaints must be resolved within 30 days from the date of complaint, the RBI Circular directs non-bank PPI issuers to resolve complaints relating to unauthorised transactions and establish liability of the customer (if any) within 90 days.

Given that a consumer has to approach the PPI issuer prior to filing a complaint with the ombudsman, the consumer has to go through the aforesaid long drawn process. Accordingly, the efficacy of such a multi-layered process involving duplication of effort and paperwork may be a case for concern. From a consumer’s perspective, making the same complaint at different levels prior to approaching the ombudsman may be frustrating (and unviable). Similar concerns have also been raised regarding the banking ombudsman.³³ With a view to deal with these concerns, this Concept Paper argues for an alternative mechanism that RBI may adopt for resolving consumer grievances through tech-based interventions.

Other Key Developments Pertaining to Consumer Protection in Digital Payments

8. *Regulatory Coordination:* The Ministry of Home Affairs, Government of India (“MHA”) has also raised concerns on the increasing trend of frauds relating to e-wallets and other related ‘phone frauds’. MHA has issued an advisory dated 12 February 2018 to all state governments and relevant law enforcement agencies to take measures such as enhancing information networks, sharing best practices to tackle such frauds and creating more awareness among the public.³⁴ MHA has given an additional mandate to the Fake Indian Currency Note (FICN) – FICN Coordination (FCORD) Group of the Intelligence Bureau to act as the central nodal agency to coordinate between relevant law enforcement agencies in relation to investigation of frauds pertaining to e-wallets. The FICN-FCORD Group is in the process of designing a web-based portal for coordination between law enforcement agencies and nodal officers of wallet companies.³⁵
9. *Proposed Amendments to PSS Act:* The Report of the Committee on Digital Payments (2016) (“**Digital Payments Committee**”)³⁶ set up by the Government of India, notes that the fragmented framework on consumer protection norms with respect to electronic transactions has resulted in legal uncertainty, potential security risks in the payment chain, and lack of consumer protection in certain areas. With a view to strengthen the consumer protection framework in case of digital payments, the Digital Payments Committee made several recommendations, including setting up of an internal dispute resolution mechanism to resolve consumer complaints by payment service providers. It further recommended that any consumer not satisfied with the internal dispute resolution process should have the right to approach the regulator. The Report of the Inter-Ministerial Committee for Finalisation of Amendments of the PSS Act, 2007,³⁷ that inter-alia submitted the Payments and Settlement Bill, 2018 (“**PSS Bill**”) has accepted these recommendations of the Digital Payments Committee and the same is accordingly reflected in the PSS Bill. Therefore, it is evident that there is a growing emphasis on improving the protection of consumer interests in the case of digital payments through legislative measures.
10. *Committee on Deepening of Digital Payments:* On 08 January 2019, RBI constituted the ‘Committee on Deepening of Digital Payments’ that will focus on providing a road map for increasing customer confidence and trust while accessing financial services through digital modes.

D. LEVERAGING TECHNOLOGY FOR SUPERVISION BY REGULATORS

1. The recent policy / legal interventions discussed above clearly indicate that the Government and the RBI recognise the vulnerability of digital transactions in the and the need for a robust consumer protection framework. While such measures are likely to build consumer confidence towards using electronic modes for payment transactions, this Concept Paper seeks to urge policy makers to explore tech-based alternative modes to protect consumers by leveraging on technology more effectively.
2. Arguably, the rapid development of financial technology being adopted by financial service providers (“FSPs”) is widening the technological divide between such FSPs and their regulators. Traditionally, the data architectures of financial sector regulators are built keeping in mind relatively low frequency and low-volume data of FSPs. Such established practices / mechanisms are experiencing difficulties in absorbing and analysing the huge volume of regulatory data generated by digitisation. Established tools such as excel spreadsheets struggle to run complex processes needed to adequately identify risks associated with the financial sector.³⁸

RegTech for Regulators Survey - Key Findings

Key findings of a recent survey of twelve financial authorities representing nineteen countries:

- Majority stressed on the need to have technologies that would allow them to enhance data analytics, automate data validation and improve security of data validation.
- At least 89% of the surveyed financial authorities believe that improvements in the quality of collected data will have significant impacts on financial inclusion, consumer protection, supervision of financial institutions, and financial integrity.
- The infrequent nature of data collection is a missed opportunity to monitor key risk metrics.

Source: RegTech for Regulators Accelerator, The State of RegTech: The Rising Demand for “Superpowers”(2018).

Box 2: RegTech for Regulators Survey - Key Findings



3. With a view to keep up with these developments, many financial sector regulators in other jurisdictions are turning to innovative technologies that are transforming the financial sector. In this regard, the term *SupTech* or supervisory technology³⁹ has gained prominence. *SupTech* refers to the use of innovative technology by supervisory agencies to support supervision over relevant regulated entities.⁴⁰ It helps supervisory agencies digitise reporting and regulatory processes, handle more data, and extract new and timelier insights from such data.
4. Under the existing legal framework applicable to PPIs in India, we understand that the RBI does not have access to real-time consumer complaints data pertaining to the operation of PPIs. Timely access to such data is critical to protect the interests of consumers in this sector. Such data may be useful for the regulator to understand the consumer complaint trends pertaining to different PPI issuers, the response time of such PPI issuers to address the complaints, identify the major areas of concern insofar as the functioning of PPIs are concerned, etc. The analysis of such data may be relevant to the regulator for supervisory purposes, enforcement actions, including inspections and investigations, monitoring the market, etc.
5. The G20/Organisation for Economic Co-operation and Development Policy Guidance on Financial Consumer Protection - Approaches in the Digital Age⁴¹ states that while technological developments present a range of challenges (and opportunities), domestic public authorities responsible for the oversight of financial consumer protection should ensure that there are adequate supervisory tools to oversee digital financial services, e.g. making use of *RegTech* and / or *SupTech* to supplement or enhance their capabilities to supervise the market and monitor risks.
6. As is illustrated in case studies discussed below, financial sector supervisors are relying on technological developments for data collection and data analysis. Data collection techniques consist of - applications that are used for supervisory reporting, data management, and virtual assistance. Examples include the ability to pull data directly from information technology systems of relevant entities, automated data validation and consolidation, and chat bots to answer consumer complaints while collecting information that could indicate probable areas of concern.⁴² The domain of data analytics include applications that are used for market surveillance, misconduct analysis as well as micro-prudential and macro-prudential supervision.⁴³
7. This part aims to provide an overview of different approaches adopted by global financial sector regulators while incorporating *SupTech* within their respective regulatory frameworks. It does not endorse any particular approach for application in the case of PPIs.

Application of SupTech for Data Collection

8. One of the several applications of *SupTech* may be in automated data collection, which provides an opportunity to shift away from templates and manual procedures that may limit the possibilities of data analysis by the regulator.
- 9 Automated data collection may be undertaken by adopting approaches such as:⁴⁴
 - (a) *Data Input Approach*: Under this approach, FSPs rely on automated processes that are enabled by rules embedded into its systems to upload sets of packaged, standardized data to a database owned or accessed by the regulator. This approach has been adopted by the Central Bank of the Republic of Austria (as discussed below in *Box 3*), for reporting of prudential data by banks.

Central Bank of the Republic of Austria

With a view to move away from templates and produce higher quality and more timely granular data of banks, the Central Bank of the Republic of Austria (OeNB) has revamped its data collection mechanism relying on technological developments. The OeNB in collaboration with its supervised entities has developed a data-input reporting platform that provides a direct interface between the information technology systems of OeNB and the banks. This platform is housed in Austrian Reporting Services GmbH that was set up in 2014 and co-owned by seven of the largest Austrian banking groups.

Using the platform, banks upload data in a standardized format, as specified by OeNB. The data is then converted into “smart cubes,” or enhanced data sets, containing specific data and information relevant for different departments within the OeNB.

*Box 3: Case Study - Central Bank of the Republic of Austria*⁴⁵

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- A red vertical bar on the left side of the page contains a white document icon with a yellow padlock. The padlock is yellow with a red keyhole and a red circular element above it. The document icon has a grey header and a grey horizontal bar.
- (b) *Data Pull Approach*: Under this approach, the regulator extracts (or pulls) raw data from FSPs' information technology systems. The regulator / supervisor is responsible for transforming raw data into standard formats and for aggregating data into relevant indicators. One concern is that FSPs may be wary of giving remote access to supervisors using this technology because this would allow supervisors to see what is in their systems, potentially including sensitive data that may or may not be directly relevant for supervision. These concerns will have to be considered for adopting such an approach. The National Bank of Rwanda has adopted this measure to pull data as discussed in Box 4 below.

National Bank of Rwanda

The National Bank of Rwanda uses an Electronic Data Warehouse (EDW) to pull data from the systems of supervised FSPs on a daily, monthly and quarterly basis. Granular operational and financial data are pulled automatically by the Banks' systems from the information technology systems of FSPs, using a virtual private network channel and end-to-end encryption. This helps to provide high frequency data. The EDW may also perform automated data validation and consolidation. Using data analytics, this system is able to generate customized, structured reports and dashboards.

In addition to core financial data from banks and other regulated institutions, the system includes certain data from mobile money operators and money transfer operators, and retail payment statistics. All data are stored in a central data repository at the Bank. There is an ongoing effort to improve standardization of data points. Data on consumer complaints and frauds are uploaded manually for the time being.

Box 4: Case Study - National Bank of Rwanda⁴⁷

10. Such an automated data collection approach may be useful for a regulator insofar as it minimises or eliminates manual procedures for data collection and may yield a range of granular data, often on a real time basis. However, such an approach may also have new concerns and challenges, including those related to informational privacy, security and operational risks.⁴⁸

Application of SupTech for Data Analysis

11. The digitisation of financial services is generating volumes of data about such services and consumer behaviour. Applying data mining and analysis techniques, such data can be used by regulators to identify patterns and consumer risks. Accordingly, many supervisory authorities have relied on technological innovations for not only collection of consumer complaints data, but also analysis to enhance market conduct supervision. Such data collection and analysis of data pertaining to consumer complaints may be relevant for generating indicators of consumer risk.
12. For instance, the Monetary Authority of Singapore ("MAS") that serves as the central bank and financial regulatory authority in Singapore, has been using techniques such as clustering and network analysis in the supervision of the financial markets and monitoring of money laundering and terrorism financing risks.⁴⁹ By developing data analytics to scan suspicious transaction reports filed by financial institutions, it is believed that such analysis will generate information pertaining to transactions from the entities under suspicion.⁵⁰
13. "Strengthening and renewing supervision through focused investment in technology and methodologies" has been set out as a priority by the Dutch Authority for the Financial Markets ("AFM"), the financial services regulatory authority for the Netherlands in its Agenda document for 2017.⁵¹ In this regard, AFM has invested in new systems that enable them to analyse large quantities of market data to identify trends and risks in the market at an early stage.⁵²

Bank of Lithuania

One of the mandates of the Bank of Lithuania (BoL) is to handle complaints and settle disputes between consumers and FSPs. In 2016, BoL introduced an electronic system to enhance its complaints-handling and dispute-resolution activities and to capture complaints data more effectively for incorporation in its supervisory work. The online submission platform allows consumers to lodge a complaint or dispute application directly through BoL's website using an electronic signature. Once a consumer's application has been submitted via the online platform, it is automatically matched to the relevant FSP's record in the internal database.

Depending on whether it is a complaint or a dispute, it is routed to the relevant department. Data and findings resulting from complaint investigations is used to determine whether an inspection should be conducted or other administrative sanctions should be applied to a particular FSP. All activities and decisions relating to the complaints or disputes are stored in the internal database. The database then allows the generation of risk profile reports for FSPs.



U.S. Consumer Financial Protection Bureau

The U.S. Consumer Financial Protection Bureau (CFPB) has been set up pursuant to the provisions of Dodd-Frank Wall Street Reform and Consumer Protection Act, 2010. One of the primary functions of the CFPB is collecting, investigating, and responding to consumer complaints. It also facilitates the centralised collection of, monitoring of and response to consumer complaints regarding consumer financial products and services.

CFPB relies on an online platform to facilitate the complaints-handling process between consumers and FSPs. Consumers may submit complaint forms tailored to specific products through CFPB's website. Once a complaint is received, it is routed to the concerned FSP through a secure company portal for response. The response of the FSP and basic information about the complaint are published on the CFPB's Consumer Complaint Database (CCD) that is available publicly. Further, such data may be used by supervision and enforcement teams to analyse the data for their own purposes, including for the annual examination schedule and market monitoring reports.

The data is also useful to produce company profiles that outline the complaint trends for specific FSPs. Such profiles include information on the issues complained about most frequently and trends over time. These are typically produced in advance of on-site examinations. It also produces company reports that analyse the timeliness, accuracy, and completeness of an FSP's complaints response, as compared with other FSPs. Such data is also shared with state and federal agencies.

*Box 6: Case Study - U.S. Consumer Financial Protection Bureau*⁵³

14. In the Indian context, the Securities and Exchange Board of India ("SEBI") has also introduced a technology-driven consumer redressal mechanism. The SEBI Complaints Redress System or SCORES is based on the 'advocacy model' where the investor remains at its core.⁵⁵ The complaints data from SCORES is used by SEBI for supervisory actions. It must be noted that pending complaints under the SCORES mechanism has constantly seen a decline since it was introduced since 2011-12.⁵⁶ An overview of how the SCORES mechanism operates is set out on the next page:

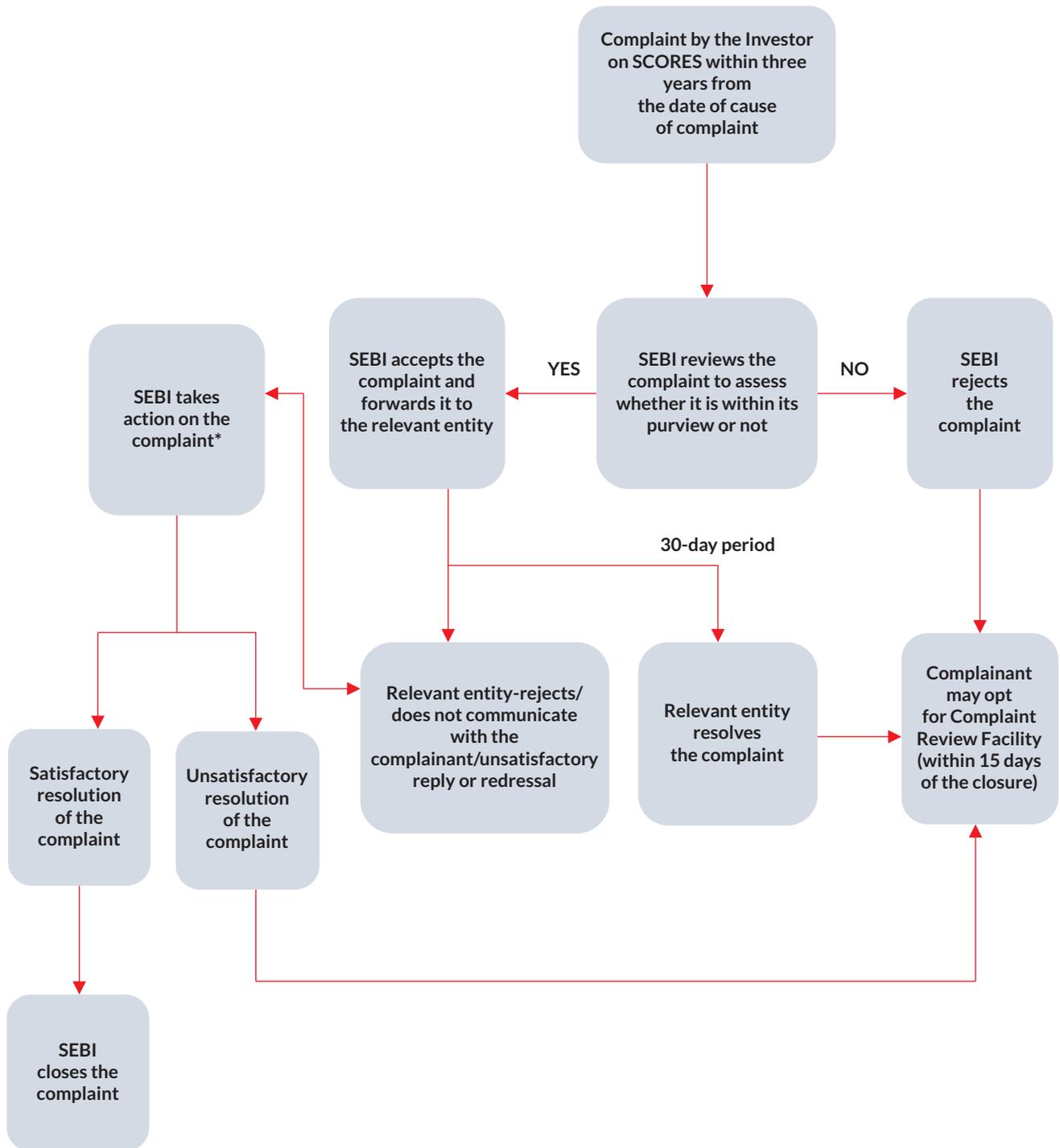


Figure 3: SEBI SCORES Complaints Redress System

*The internal mechanism used by SEBI to adjudicate complaints is unclear.

SEBI – SCORES Complaints Redress System

An investor can lodge a complaint against listed companies and intermediaries registered with SEBI on the online portal of SCORES irrespective of whether she has exhausted all bilateral redress mechanisms.

There are certain complaints that are not dealt through SCORES, including:

- complaints those are sub-judice i.e. relating to cases that are under consideration by the court of law, quasi-judicial proceedings etc.;
- complaints falling under the purview of other regulatory bodies;
- complaints against a sick company or a company where a moratorium order is passed in winding up / insolvency proceedings; and
- complaints against the companies where the name of a company is struck by the Registrar of Companies;

All complaints received under SCORES are monitored by respective departments of SEBI responsible for overseeing the relevant intermediaries. Companies are required to file Action Taken Reports within 30 days of receipt of complaint. If the response of the company/intermediary is insufficient / inadequate, follow up action is initiated by SEBI. SEBI takes appropriate enforcement actions (adjudication, directions, prosecution, etc.) as provided under the law where progress in redressal of investor grievances is not satisfactory.

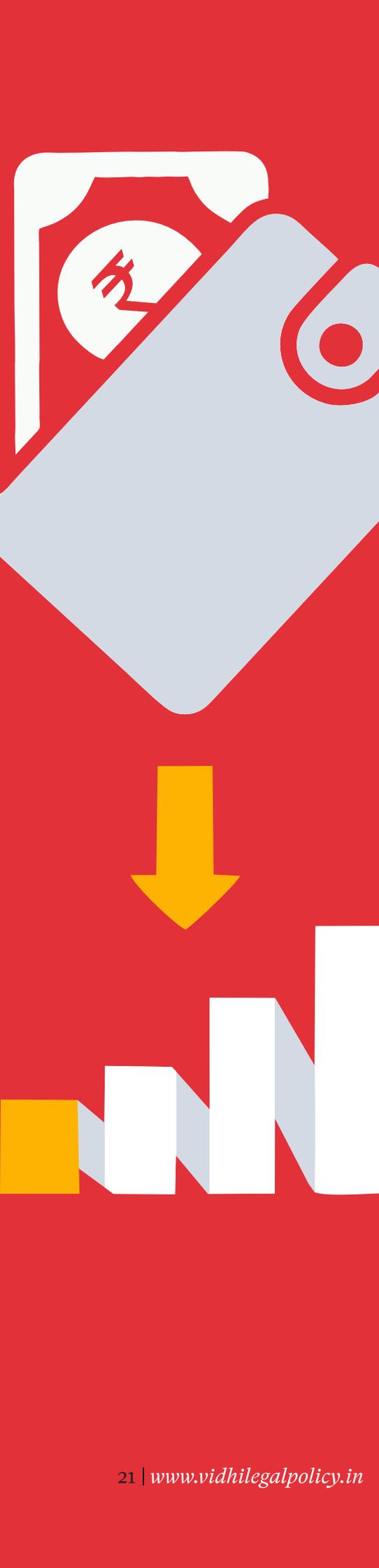
As per Annual Report (2017-18), SEBI, on cumulative basis saw an increase in investor complaints from 30,03,454 as on 31 March, 2017 to 30,46,585 as on 31 March, 2018. However, during the same period the number of pending actionable complaints has reduced from 4,476 to 3,771.

SEBI has also proposed Integration of SCORES with a Mobile App for speedy resolution and tracking of investor complaints.

Box 7: Case Study – SEBI - SCORES Complaints Redress System⁵⁷

Harnessing technology for supervisory processes by RBI

15. Acknowledging the importance of using technology for supervision, RBI is also moving towards improvising its supervisory capabilities. In 2010, RBI released an approach paper on automated data flow (“**ADF**”), a straight through process from the core banking solution or other information technology systems of commercial banks to the RBI.⁵⁸ ADF seeks to ensure submission of correct and consistent data from the banks straight from their systems to the RBI without any manual intervention.
16. In 2015, the Committee on Data Standardization constituted by the RBI recommended that using secure network connections between the RBI server and the bank’s ADF server, the contents of the dataset can be either pulled through ETL (Extract, Transform and Load mode) (data pull approach) or pushed through SFTP (Secure File Transfer Protocol mode) (data input approach) and loaded onto the RBI server automatically as per the periodicity without any manual intervention.⁵⁹ In RBI’s Annual Report (2017-‘18), RBI re-emphasised that the ‘integrity and consistency of data are crucial for framing policy and designing strategies’.⁶⁰ It further stated that an Automated Data Extraction Project which has been initiated for extraction of data from banks by the RBI which is in the final stage of implementation. While RBI has taken measures to imbibe technology for effective supervision, these developments largely pertain to interventions in relation to regulatory filing for banks.
17. We understand that RBI is also exploring the possibility of developing a Centralised Information Management System for revamping the existing data warehouse of the RBI and is looking at incorporating technology-based data solutions.⁶¹
18. In this Concept Paper, we argue that in light of the aforesaid experience of RBI and case studies (discussed above), RBI may adopt a similar approach, with certain modifications, to gather consumer complaints data from PPIs on a real-time basis which can then be further used for data analysis. This will be instrumental for building a robust consumer protection framework for payment wallets in India for reasons discussed below. Further, RBI’s tracking of such information on a real-time basis is also likely to make service providers more vigilant and encourage them to take proactive measures for reducing the volume of complaints.



E. BUILDING A CASE FOR A TECH-ENABLED CONSUMER GRIEVANCE REDRESSAL FRAMEWORK

1. The World Payments Report 2018 forecasts that during the five-year period 2016-2021, the compound annual growth rate of worldwide non-cash transactions will be 12.7%, with growth in more immediate future of 11% during 2016-2017.⁶² The highest growth rate of 21.6%, over the said five-year period, is expected to come from developing regions of Latin America, Central Europe, Middle East and Africa, and Emerging Asia. The Report notes that India is one of the most promising markets, with high potential for growth in non-cash transactions.
2. With the emergence of FinTech companies, the existing payments landscape for financial regulators has become complex and is ever-evolving.⁶³ While policy makers are exploring possibilities to review the regulatory framework governing new forms of financial services and products in the wake of future prospects of the payments industry, there is also a need to assess whether current supervisory approaches remain adequate, or whether a change is needed. Based on the case studies discussed above, it is evident that regulatory authorities in other jurisdictions have leveraged the opportunities provided by technological solutions to improve their supervisory approaches and processes.
3. Timely access to data pertaining to regulated entities has the potential to assist regulators in discharging their supervisory functions more effectively, more particularly for promoting and protecting consumer interests. This is in contrast to the existing mechanism that relies on approaches based on past data and onsite inspections that may often result in delayed supervisory action. The use of technology can enable RBI to better identify and monitor sources of risk and improve the accuracy and timeliness of information flows and interactions between RBI and relevant stakeholders in the digital payments sector.
4. While we understand that RBI is exploring possibilities of technological interventions for better supervision of the financial sector in general as discussed in paragraph 14 of Part D (*Harnessing technology for supervisory processes by RBI*), this Concept Paper seeks to argue that there is a need for RBI to consider exploring possibilities of developing technology-oriented solutions specifically for the purposes of addressing consumer complaints in relation to payment wallets/PPIs.

5. In light of this, it is pertinent to note that at present, under the PPI Master Directions, PPI issuers are mandated to provide quarterly reports on complaints received and status on actions taken to the RBI. The PPI Master Direction specify a format for submission of such reports.

6. We understand that, as on date there is no automated reporting mechanism that has been mandated by RBI for such submissions. Such a framework suffers from certain drawbacks such as: (a) RBI does not have real time access to such consumer complaints data; (b) size and format constraints limit the granularity and flexibility of data submitted; and (c) this in turn limits the analysis of data and insights that may be generated from such data. In this regard, this Concept Paper broadly sets out two approaches that may be considered by RBI for leveraging technological developments for collection and analysis of consumer complaints data pertaining to payment wallets/PPIs.

F. RECOMMENDATIONS

For the purposes of enabling RBI to augment its existing capabilities to collect and analyse consumer complaints data of payment wallets / PPIs, set out below are two broad approaches that may be considered:

Approach A

Direct access to consumer complaints data from the PPI issuers on a real-time or near real time basis

1. This approach seeks to build on the recent RBI Circular mandating non-bank PPI issuers to have a direct link for lodging complaints, with specific option to report unauthorised electronic payment transactions on the mobile application / home page of their website / any other evolving acceptance mode.

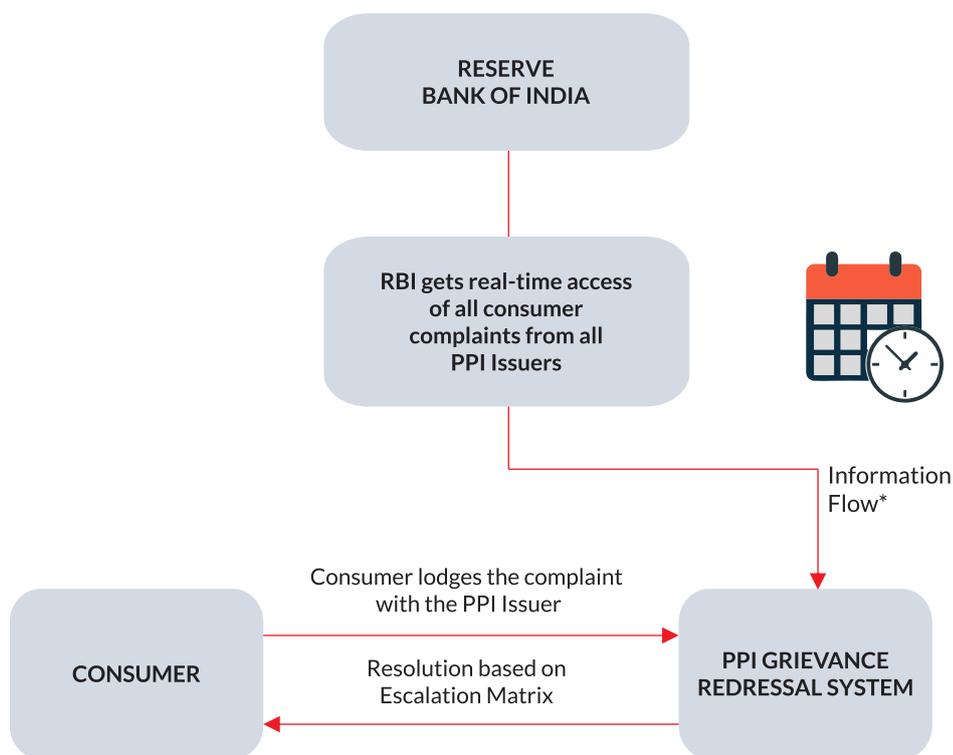


Figure 4: Approach A - Flow Chart

**The information flow shall depend on the data collection approach.*

2. Through technological interventions, RBI may be provided with automated real-time access to consumer complaints data registered with the PPI issuer from its systems, including data pertaining to complaints registered, complaints closed and ability to track the real-time status of complaints. The approach to access such data will require deliberations on factors such as the data sets to be collected, security risk mitigation mechanisms that have to be built in, and the purpose of data analytics for discharging supervisory functions.

3. However, as mentioned above, in case of any technology that enables RBI to access personal information of consumers or confidential data from the systems of the PPI issuer, concerns pertaining to informational privacy, security and operational risks will have to be considered. This assumes significance in light of the judgment of the Hon'ble Supreme Court of India in *Justice K.S.Puttaswamy (Retd.) v. Union of India*⁶⁴ where the Court has recognised the right to privacy as a fundamental right. Any State action that restrains this right must meet the tests as set by the Court in the *Puttaswamy* case: (a) such a State action must be sanctioned by law; (b) there must be a legitimate State interest in restricting the right; and (c) the restriction is necessary and proportionate to meet this legitimate State interest. In the event any personal information of a consumer is acquired under this approach, privacy implications as discussed herein will have to be considered and the regulator can access only relevant complaints data in accordance with applicable law.

Snapshot of Approach A

Key Features

- Creation of a centralised database of consumer complaints received directly from all PPI issuers.
- Since RBI can collect consumer complaints data from all PPI issuers under this approach, it will enable them to have a more holistic view of the sector as opposed to a platform operated by RBI itself that may have access to limited consumer complaints data.
- Ideally, the first point of grievance redressal should be the service provide since they are in a better position to resolve the consumer complaints.

Considerations

- There may be informational privacy concerns if RBI is able to access personal information of consumers collected by PPI issuers.
- There must be adequate security safeguards to ensure that there is no unauthorised access to data.
- Cost of compliance for PPI issuers will have to be considered (including the possibility of frivolous complaints).

Approach B

Setting up a centralised online grievance redressal platform for accepting consumer complaints

1. Under this approach, RBI may consider setting up an online platform (or an app) for redressing consumer grievances. This platform will enable consumers to file complaints that may then be routed to the concerned PPI issuer. The approach adopted by the U.S. Consumer Financial Protection Bureau and SEBI in the SCORES mechanism may be considered for designing such a platform. Needless to say, institutional capacity of RBI to operate such a system will have to be assessed before adopting this option.
2. In implementing the Approach B, the following issues will have to be specified:
 - (a) identification of the type of complaints that will / will not be entertained;
 - (b) time limit for lodging a complaint;
 - (c) timeline for a wallet issuer to respond to a complaint;
 - (d) mechanism for resolution of a complaint;
 - (e) timeline for resolution of a complaint;
 - (f) mechanism (if any) for dealing with issues pertaining to non-satisfaction with closure of complaint; and
 - (g) mechanism (if any) for non-resolution of the complaint by the PPI issuer.

Snapshot of Approach B

Key Features

- This is a centralised technology enabled platform operated by RBI that will collect consumer complaints data directly from the consumer.
- Since RBI will have access to such consumer grievance related data from the consumers directly, it does not have to depend on the PPI issuers.

Considerations

- The access to consumer complaints data maybe limited since some consumers may directly approach the grievance redressal mechanism operated by the PPI issuer.
- The cost of institutional capacity building for implementing this approach will have to be weighed in.
- SEBI that has been implementing SCORES since 2011 has acknowledged that the service provider is better placed to resolve such grievances and hence, should be the first point of contact.

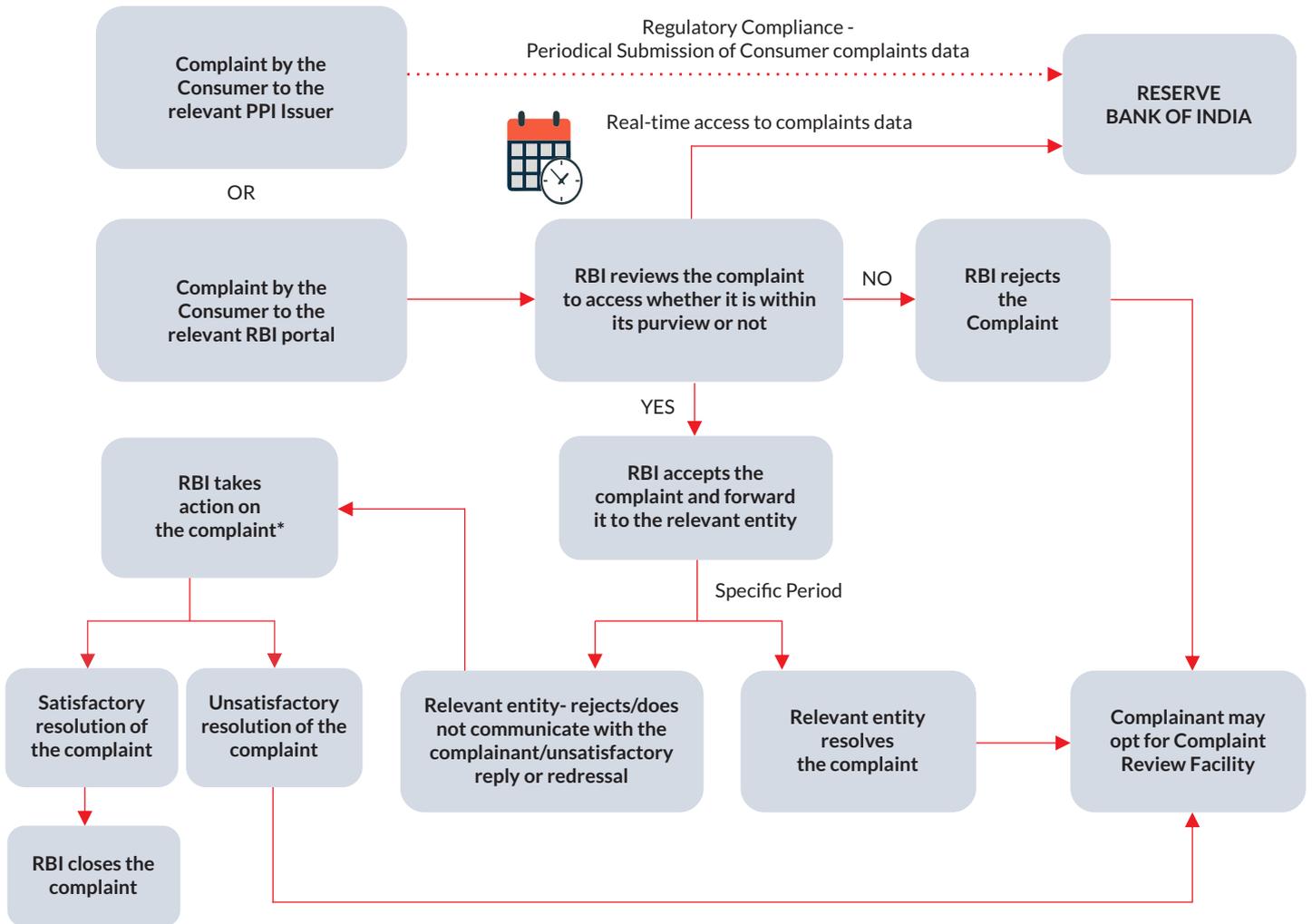
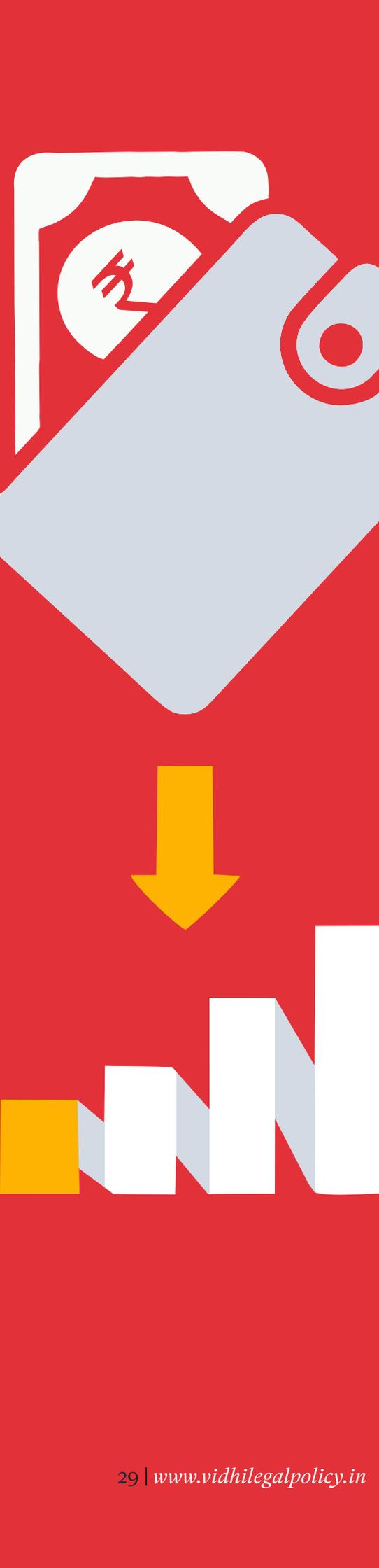


Figure 5: Approach B - Flow Chart

**This Approach is largely based on SEBI SCORES Mechanism and can be tweaked based on relevant considerations.*

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3. Contrary to the existing mechanism, the aforesaid approaches will enable RBI to have real-time or a near real time access to consumer complaints data. Using data analytics on such real time or nearly real time data will be instrumental for RBI to discharge its supervisory functions. Such analysis will enable RBI to have information about the operations of the PPIs, security risks associated with such PPIs, identify trends and potential consumer risks that such PPIs may pose. Such data analytics should generate automated reports regarding the handling of consumer complaints by a PPI issuer. Such information will be instrumental for RBI discharging its functions as a regulator of payment systems.
 4. Upon receipt of such consumer complaints data for research or other use, RBI may consider publishing such data indicating the number and nature of consumer complaints received, resolved and pending as on a particular date, in such form and manner, subject to privacy considerations. Additionally, in order to encourage a disclosure based regime, RBI may require PPIs to disclose complaints data (keeping in mind privacy considerations) specifically displaying the nature of complaint, number of complaints received, complaints under process and complaints disposed on a monthly basis on the PPIs website.
 5. As opposed to an ombudsman framework, the proposed approach will enable RBI to monitor the implementation of the grievance redressal policy of the PPI issuer right from the date of the submission of the complaint. It will further enable RBI to assess if PPI issuers have adhered to the regulatory timelines for resolution of complaints. One may argue that this coupled with the disclosure requirement as discussed in the preceding paragraph is likely to compel PPI issuers to ensure that there is timely resolution of complaints. Further, from a consumer's perspective, an early and effective resolution of complaint at the level of the PPI issuer will avoid long drawn process of going through the DT Ombudsman Scheme. Access to an effective grievance redressal mechanism may be constrained by a multi-layered process as envisaged under an ombudsman scheme. Accessibility becomes critical in case of vulnerable consumers who may who may not have the time and resources to go through such a multi-layered process.
 6. Further, RBI's direct oversight over the redressal process (under either approach) is likely to promote accountability among PPI issuers for discharging their consumer protection mandate efficiently and inspire confidence of consumers in the process. This is crucial in promoting the cause of financial inclusion.

7. To give effect to any of the approaches discussed above, it is imperative to have detailed consultations with domain experts, including experts from the field of payment systems, banking and payment technology. Further, consultations with regulators of other jurisdictions that have adopted supervisory technology for automated data collection and data analytics may be helpful to draw on from their experiences. Such consultations will be relevant for assessing the modes of data collection that may be possible under the proposed approaches, infrastructure requirement for adopting such approaches and possible risk from a data security perspective.
8. Additionally, before adopting any of the above approaches, a comprehensive cost-benefit analysis and technical feasibility analysis of the possible approaches must be carried out.
9. While this Concept Paper focuses on exploring tech-based interventions for ensuring a robust consumer protection framework for PPIs, tech-enabled supervisory approach may also be explored by other financial sector regulators and policy-makers as a part of its consumer protection mandate after an analysis of the specific nature of regulated entities and their consumer base.



G. CONCLUSION

The rapid pace of digitisation in the financial sector makes a compelling case for regulators to integrate innovative technologies in their regulatory and supervisory processes. The wave of digitisation in the financial sector is generating a large amount of data pertaining to the financial sector and its consumers. However, the traditional regulatory data architecture that relies on manual filing, processing, excel spreadsheets, low frequency data filings etc. may not be equipped to enable regulators to exploit the potential of such data in providing timelier insights.

While we understand that RBI is exploring various approaches for improvising its supervisory capabilities with technological advancements, this Concept Paper argues for technology based interventions specifically in the context of ensuring a more robust consumer protection framework for payment wallets. The steady growth in PPI transactions, associated concerns with rising consumer complaints relating to digital transactions and the initiatives of the Government along with the RBI to deepen digital payments to facilitate greater access to such modes of payments necessitate serious consideration of such tech-based interventions.

Under the existing regulatory framework, we understand that RBI does not have real-time access to consumer complaints data. Further, the format of regulatory filings pertaining to consumer complaints by PPI issuers limits the analysis and insights that may be generated from such data. In light of this, this Concept Paper recommends the following:

- (i) RBI should have a real-time or near real-time access to consumer complaints data as opposed to the existing quarterly filings mandated by the PPI Master Directions.
- (ii) In this regard, there are two possible approaches that may be considered by RBI: (a) direct access to consumer complaints data from the information systems of PPI issuers; or (b) setting up a centralised online grievance redressal platform for consumer complaints by RBI. Issues to be considered while adopting either of the approaches have been discussed in Part F (Proposed Recommendations).
- (iii) Using advanced data analytics on such consumer complaints data will enable RBI to draw relevant insights from such data pertaining to operations of the PPIs, security risks associated with such PPIs, identify trends and potential consumer risks that such PPIs may pose, etc. This will be instrumental in determining the supervisory policy of RBI.
- (iv) Subject to informational privacy considerations, disclosure of relevant information indicating number and nature of consumer complaints resolved and pending as of a particular date on the website of RBI and the PPI issuers may also be considered.

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4. Total electronic transactions in terms of retail payments comprises of (a) Retail Electronic Clearing comprising of Electronic Clearing System Debit, Electronic Clearing System Credit, National Electronic Funds Transfer, Immediate Payment Service, Unified Payment Interface, National Automated Clearing House; and (b) Card Payments consisting of Credit Cards, Debit Cards and PPIs. Clearing comprising of Electronic Clearing System Debit, Electronic Clearing System Credit, National Electronic Funds Transfer, Immediate Payment Service, Unified Payment Interface, National Automated Clearing House; and (b) Card Payments consisting of Credit Cards, Debit Cards and PPIs.
5. Please note that the total retail payments comprises of (a) Paper based clearing which comprises of Cheque Truncation System and Non-Magnetic Ink Character Recognition Clearing; (b) Retail Electronic Clearing comprising of Electronic Clearing System Debit, Electronic Clearing System Credit, National Electronic Funds Transfer, Immediate Payment Service, Unified Payment Interface, National Automated Clearing House; and (c) Card Payments consisting of Credit Cards, Debit Cards and PPIs.
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