

## Cross-Border Payment Aggregator - New Licensing Regime of RBI

### Introduction

1. The Department of Payment and Settlement Systems of the Reserve Bank of India (“**RBI**”) issued the Circular on Regulation of Payment Aggregator – Cross Border, on October 31, 2023 (“**PA-CB Guidelines**”), bringing all entities facilitating online cross-border payments for import and export of goods/ services, under RBI’s direct regulation, with such entities being termed as payment aggregators - cross-border (“**Cross-Border PA**”).
2. The RBI, by way of PA-CB Guidelines has now opened up cross-border payment aggregation business for non-bank entities, which was earlier the exclusive domain of AD Banks. Earlier, such entities involved in cross-border payments for import and export of goods and services tied up with Authorised Dealer Category I Banks (“**AD Banks**”) to operate as online payment gateway service providers (“**OPGSPs**”) and collection agents, and were supervised through such AD Banks.
3. The RBI has now taken a step by bringing Cross-Border PAs under its direct supervision, which provides additional flexibility, such as increased transaction limits (expected to boost total number of cross-border e-commerce transactions), but also shifts certain compliance responsibilities from AD Banks to Cross Border PAs, such as reporting of suspicious transactions to the Financial Intelligence Unit – India (“**FIU-Ind**”).



### Key Features

1. The following key features continue from erstwhile regime for Cross-Border PAs:
  - a. **Accounts to be Maintained:**
    - i. Export Transactions: Requirement to maintain export collection account (“**Export Account**”) with an AD Bank (INR and non-INR denominated). Separate Export Accounts to be maintained for each non-INR currency.
    - ii. Import Transactions: Requirement to maintain an import collection account (“**Import Account**”) with and AD Bank.

- b. Permissible Transactions:** Only transactions for permissible goods/ services under the Foreign Trade Policy may be facilitated by Cross-Border PAs.
- c. Export/ Import Data Processing Monitoring System (“EDPMS/ IDPMS”):** AD Banks to ensure the requirements under FEMA, including reporting and reconciliation of entries in EDPMS/ IDPMS.
2. The following key features have been introduced *vide* the PA-CB:
- a. Categories of Cross-Border PAs:** (i) export only Cross-Border PA (“**Export PA**”); (ii) import only Cross-Border PA (“**Import PA**”); and (iii) export and import Cross-Border PA (“**Export-Import PA**”).
- b. Flow of Funds:**
- Export Transactions: Export proceeds must be entirely credited to the Export Account and thereafter, settled directly in the account of Indian exporter/ merchant, or be routed through a domestic payment aggregator (“**PA**”).
  - Import Transactions: Payments for imports to be received in a PA escrow account, which shall then be transferred to the Import Account, and thereafter, be debited from the Import Account to the foreign importer/ merchant or foreign PAs.
- c. KYC Requirements:**
- Import Transactions: Customer due diligence, as per RBI’s extant guidelines to be undertaken by Cross-Border PAs on merchants or e-commerce platforms or PAs overseas, as the case may be. If value of transactions is above INR 2,50,000, customer due diligence on buyer to also be undertaken.
  - Export Transactions: Customer due diligence, as per RBI’s extant guidelines to be undertaken by Cross-Border PAs on Indian merchants or e-commerce platforms or domestic PAs, as the case may be.
- d. On-boarding:**
- Import Transactions: Cross-Border PAs may directly on-board overseas merchants or enter into an agreement with e-commerce platforms/ foreign PAs.
  - Export Transactions: Cross-Border PAs may directly on-board Indian merchants or enter into an agreement with e-commerce platforms/ domestic PAs.
- e. Transaction Limits:** The maximum value per unit of goods/ services must not exceed INR 25,00,000.
- f. Deadlines:**
- December 30, 2023: Non-bank PAs that engage in Cross-Border PA activities must inform the RBI about their decision to continue or discontinue such activities.
  - January 31, 2024: All existing non-bank Cross-Border PAs must comply with certain provisions<sup>1</sup> of the Guidelines on Regulation of Payment Aggregators and Payment Gateways, dated March 17, 2020 (“**PA Guidelines**”).
  - April 30, 2024: All non-bank Cross-Border PAs must register with FIU-Ind and apply for authorisation.
  - July 31, 2024: All existing non-bank Cross-Border PAs must submit evidence of application for authorisation to prevent closure of their bank accounts.
- Implications:**
- a. OPGSPs/ Collection Agents:**
- Now under direct regulation of RBI, as opposed to supervision through AD Banks.
  - The PA-CB Guidelines has adopted certain requirements from the erstwhile Cross-Border PA regime, allowing flexibility in activity scope and

<sup>1</sup> Provisions of the PA Guidelines relating to governance, merchant on-boarding, customer grievance redressal, dispute management framework, baseline technology recommendations, security, fraud prevention and risk management framework.

additional compliance requirements leading to organizational changes.

- iii. Will now require a locally incorporated entity to apply for Cross-Border PA authorisation, as opposed to a liaison office.
- iv. Flexibility in terms of licensing i.e., Import PA/ Export PA/ Export-Import PA.
- v. Flexibility to tie-up with domestic/ overseas PAs, as required for existing/ future business models.
- vi. Transaction limits for OPGSPs, now set at INR 25,00,000 per unit of goods/ services, as opposed to ~INR 1,60,000 (USD 2000) for import and ~INR 8,30,000 (USD 10,000) for export transactions.
- vii. Risk of bank accounts closure in case of failure to submit evidence of application for authorisation by July 31, 2024.

## b. Domestic PAs:

- i. Non-banks players may opt for single authorisation to undertake PA and Cross-Border PA business.
- ii. Domestic PAs, awaiting final approval and presently not undertaking Cross-Border PA activity, can apply for Cross-Border PA only after final PA authorization.
- iii. Flexibility to tie-up with Cross-Border PAs, to provide cross-border payment services to existing Indian merchants.

## c. Foreign PAs/ E-commerce Entities:

- i. Flexibility to tie-up with Cross-Border PAs registered with the RBI, to provide services to their existing foreign merchants.
- ii. Will be subject to customer due diligence (to be undertaken by Cross-Border PA) as per extant RBI guidelines.
- iii. If a foreign PA has partnered with card networks directly to receive funds (for card payments) in an overseas jurisdiction, no requirement for Cross-Border PA authorisation/ tie-up with Cross-Border PA.

## Conclusion:

The PA-CB Circular is expected to develop the cross-border payment ecosystem:

- i. The existing Cross-Border PAs are poised for a major transformation, both in terms of organisation and technology, to align with the stringent requirements of the PA-CB Circular. This will necessitate a substantial financial outlay to implement robust safeguards, establish safe and secure technological infrastructure and adhere to the comprehensive compliance and reporting requirements outlined in the PA Guidelines.
- ii. The PA-CB Circular has opened up opportunities for FinTech players to venture into Cross-Border PA services. This has the potential to bring technological expertise to the merchants/ vendors and provide a one-stop solution for cross-border payments.

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