



AMENDMENT TO MASTER DIRECTION - NON-BANKING FINANCIAL COMPANY – PEER TO PEER LENDING PLATFORM (RESERVE BANK) DIRECTIONS, 2017

I. INTRODUCTION AND BACKGROUND:

Reserve Bank of India ("**RBI**") vide its circular dated August 16, 2024, bearing reference no. RBI/2024-25/63 ("**said Circular**") has reviewed the '**Master Direction on Non-Banking Financial Company – Peer to Peer Lending Platform (Reserve Bank) Directions, 2017**' ("**said Direction**"), and made certain amendments and additions in the provisions of the said Direction. The said Direction envisaged Non-Banking Financial Companies Peer-to-Peer ("**NBFC-P2P**") to act as an intermediary providing online marketplace / platform to the participants involved in peer-to-peer lending.

The amendments/additions as envisaged in the said Circular comes as a consequence of the platforms adopting certain malpractices which were violative of the provisions of the said Direction. Such practices included, among others, violation of the prescribed funds transfer mechanism, promoting peer to peer lending as an investment product with features like tenure linked assured minimum returns, providing liquidity options and at times acting like deposit takers and lenders, instead of being a platform. The said Circular strengthens the pre-existing regulations for NBFC- P2P lending platforms to stiffen transparency and adherence to these regulations.

II. APPLICABILITY:

The amendments/additions as mentioned under the said Circular are applicable to all NBFC-P2P lending platforms.

III. COMMENCEMENT:

The amended/added provisions as contained in the said Circular shall come into effect from August 16, 2024 except for the modified clause 9(ii) herein, which shall come into effect from 90 days from the date of the said Circular.

IV. KEY AMENDMENTS

Sr.No.	Provision of the said Direction	Existing Provision	Amended Provision
a.	6(1)(iv)	An NBFC-P2P shall not provide or arrange any credit enhancement or credit guarantee.	An NBFC-P2P shall not provide or arrange any credit enhancement or credit guarantee. NBFC-P2P shall not assume any credit risk, either directly or indirectly, arising out of transactions carried out on its platform. In other words, entire loss of principal or interest or both, if any, in respect of funds lent by lenders to borrowers on the platform shall be borne by the lenders and adequate disclosures to this effect shall be made to lenders as part of fair practices code specified in para 12 of the said Direction.
b.	6(1)(vii)	An NBFC-P2P shall not cross sell any product except for loan specific insurance products.	An NBFC-P2P shall not cross sell any product except for loan specific insurance products. It may be noted that NBFC-P2P shall not cross sell any insurance product also which is in the nature

			of credit enhancement or credit guarantee.
c.	7(2)	The aggregate exposure of a lender to all borrowers at any point of time, across all P2P platforms, shall be subject to a cap of Rs.50,00,000/- provided that such investments of the lenders on P2P platforms are consistent with their networth. The lender investing more than Rs.10,00,000 across P2P platforms shall produce a certificate to P2P platforms from a practicing Chartered Accountant certifying minimum net-worth of Rs.50,00,000.	The aggregate exposure of a lender to all borrowers at any point of time, across all P2P platforms, shall be subject to a cap of Rs.50,00,000 provided that the amount lent by the lenders on P2P platforms is consistent with their net-worth. In case, the amount lent by a lender is more than Rs.10,00,000 across P2P platforms, the lender shall produce a certificate to P2P platforms from a practicing Chartered Accountant certifying minimum net-worth of Rs.50,00,000.
d.	8(1)(iii)	NBFC-P2P shall have a Board approved policy in place - Setting out the rules for matching lenders with borrowers in an equitable and non-discriminatory manner.	NBFC-P2P shall have a Board approved policy in place - Setting out the rules for matching/mapping lenders with borrowers in an equitable and non-discriminatory manner.
e.	8(3)	No loan shall be disbursed unless the individual lender/s have approved the individual recipient/s of the loan and all concerned participants have signed the loan contract.	No loan shall be disbursed unless the lenders and the borrowers have been matched/ mapped as per the board approved policy framed in terms of paragraph 8(1)(iii), the individual lender(s) have approved the individual recipient(s) of the loan and all concerned participants have signed the loan contract.
f.	9	Fund transfer between the participants on the Peer to Peer Lending Platform shall be through escrow account mechanisms which will be operated by a bank promoted trustee. At least two escrow accounts, one for funds received from lenders and pending disbursement, and the other for collections from borrowers, shall be maintained. All fund transfers shall be through and from bank accounts and cash transaction is strictly prohibited. The mechanism as described in the Annex-I may be adopted by the NBFC-P2P.	(i) Fund transfer between the participants on the Peer to Peer Lending Platform shall be through escrow account mechanisms which will be operated by a bank promoted trustee. At least two escrow accounts, one for funds received from lenders and pending disbursement (i.e., Lenders' Escrow Account), and the other for collections from borrowers (i.e., Borrowers' escrow Account), shall be maintained. Under this prescribed funds transfer mechanism, funds from the lenders' bank accounts shall only be transferred to the Lenders' Escrow Account and shall only be disbursed to the specific borrower's bank account after ensuring compliance to the paragraph 8(3) of these Directions. The borrower shall transfer the amount towards repayment of loan from his bank account to the Borrowers' Escrow Account, from where the funds shall only be transferred to the respective lender's bank account. Funds from 'Lenders' Escrow Account' shall not be used for repayment of loans and funds from 'Borrowers' Escrow Account' shall not be used for disbursement of loans. All fund transfers shall be through and from bank accounts and cash transaction is strictly prohibited. The pictorial depiction of the Funds Transfer Mechanism as described in the Annex-I shall be adopted by the NBFC-

			<p>P2P.</p> <p>(ii) The funds transferred into the Lenders' Escrow Account and Borrowers' Escrow Account shall not remain in these Escrow Accounts for a period exceeding 'T+1' day, where 'T' is the date on which the funds are received in these Escrow Accounts.</p>
g.	11(1)(i)(a)	<p>An NBFC-P2P shall be required to disclose the following:</p> <p>(i) to the lender</p> <p>(a) details about the borrower/s including personal identity, required amount, interest rate sought and credit score as arrived by the NBFC-P2P.</p>	<p>An NBFC-P2P shall be required to disclose the following:</p> <p>(i) to the lender</p> <p>(a) details about the borrower(s) including personal identity with his/ her consent (which should be kept on record), required amount, interest rate sought and credit score as arrived by the NBFC-P2P.</p>
h.	11(1)(iii)(d)	<p>An NBFC-P2P shall be required to disclose the following:</p> <p>(iii) publicly disclose on its website:</p> <p>(d) portfolio performance including share of non-performing assets on a monthly basis and segregation by age; and</p>	<p>An NBFC-P2P shall be required to disclose the following: (iii) publicly disclose on its website: (d) portfolio performance including share of non-performing assets (NPAs) on a monthly basis and segregation by age. It may be noted that such disclosures shall also include all losses borne by the lenders on principal or interest or both; and</p>
i.	12(2)	<p>NBFC-P2P shall be required to obtain explicit declaration from the lender stating that he/she has understood all the risks associated with the lending transactions and that P2P platform does not assure return of principal/payment of interest. The declaration shall also state that there exists a likelihood of loss of entire principal in case of default by a borrower. The platform shall not provide any assurance for the recovery of loans. Further, the platform shall display a caveat that "Reserve Bank of India does not accept any responsibility for the correctness of any of the statements or representations made or opinions expressed by the NBFC-P2P, and does not provide any assurance for repayment of the loans lent on it".</p>	<p>NBFC-P2P shall be required to obtain explicit declaration from the lender stating that he/she has understood all the risks associated with the lending transactions and that P2P platform does not assure return of principal/payment of interest. The declaration shall also state that there exists a likelihood of loss of entire principal in case of default by a borrower. The P2P platform shall not provide any assurance or guarantee for the recovery of loans. Further, the P2P platform shall not promote peer to peer lending as an investment product with features like tenure linked assured minimum returns, liquidity options, etc.</p>
j.	Annex VI-2	<p>NBFCs which choose to outsource financial services shall, however, not outsource core management functions including Internal Audit, Strategic and Compliance functions and decision-making functions such as determining compliance with KYC norms for opening deposit accounts, according sanction for loans (including retail loans) and management of investment portfolio. However, for NBFCs</p>	<p>NBFC-P2Ps which choose to outsource any of their functions shall, however, not outsource core management functions including Internal Audit, Strategic and Compliance functions, pricing of services/ fees to be charged to borrowers/ lenders and decision-making functions such as determining compliance with KYC norms. However, for NBFC-P2Ps in a group/conglomerate, these functions may be outsourced within the group subject to</p>

		in a group/conglomerate, these functions may be outsourced within the group subject to compliance with instructions in Para 6. Further, while internal audit function itself is a management process, the internal auditors can be on contract.	compliance with instructions in Para 6. Further, while internal audit function itself is a management process, the internal auditors can be on contract.
--	--	---	--

V. ADDITION OF NEW PROVISIONS

Sr. No.	Provision to be incorporated	Provision
i.	Scope of Activities <u>6(1)(xi)</u>	An NBFC-P2P shall not deploy lenders' funds in any manner other than as specified in these Directions.
ii.	Scope of Activities <u>6(i)(xii)</u>	NBFC-P2P shall not utilize funds of a lender for replacement of any other lender(s).
iii.	Operational Guidelines <u>8(4)</u>	The pricing policy shall be objective and NBFC-P2P shall disclose the fees liable to be charged, ab initio, i.e., at the time of lending itself. The fees shall be a fixed amount or a fixed proportion of the principal amount involved in the lending transaction. The fees shall not be dependent upon the repayment by the borrower(s).
iv.	Operational Guidelines <u>8(5)</u>	The practice of matching/ mapping the participants within a closed user group, whether sourced through an outsourced agency or otherwise, is not permitted. Examples of 'closed user group' include borrowers/lenders sourced through an affiliate/service provider to the NBFC-P2P.
v.	Transparency and Disclosure Requirements <u>11(4)</u>	NBFC-P2P shall explicitly and prominently mention its name (as mentioned in the Certificate of Registration) along with its brand name, if any, in all its touch points/ customer interfaces including promotional material and any communication with stakeholders/ participants.
vi.	Fair Practice Code <u>12(6)</u>	The platform shall display a caveat prominently on its website, mobile/web applications including any other promotional material used by it that "It is an NBFC-P2P lending platform registered with the Reserve Bank. However, Reserve Bank does not accept any responsibility for the correctness of any of the statements or representations made or opinions expressed by the NBFC-P2P and does not provide any assurance for repayment of the loans lent on it".

VI. CONCLUSION:

The amendments made to the said Direction is both a reactionary and preventative action of the RBI to cover the loopholes in the said Direction. The amendments made vide said Circular regarding responsibilities of NBFC-P2P platforms, particularly handling of funds and the communication of risks to participants marks a significant step toward enhancing regulatory compliance and protecting the interests of both lenders and borrowers. By explicitly stating that NBFC-P2Ps cannot provide credit enhancement or credit guarantee, the RBI aims to put the default loss obligations on the lenders and not on the platforms, so that the lenders will be more careful while doing lending activities and will not rely upon guarantee of platforms.

Further introduction of stringent fund transfer mechanisms, including the mandatory use of escrow accounts with defined ownership for both the lender and the borrower respectively operated by a bank promoted trustee, reinforces the importance of secure financial transactions and is a measure to mitigate fraud and enhance accountability within the peer-to-peer lending space. The requirement for NBFC-P2Ps to disclose comprehensive information about borrowers, including credit scores and personal identities with consent, is another vital enhancement as it brings the said Direction in conformity with the data protection laws of India.

Disclaimer:

The contents of this newsletter are intended for information purposes only and have been prepared basis the notifications/circulars available on the online portal/websites and have not been independently verified. The analysis herein is not in the nature of a legal opinion or advice and has been prepared for general guidance. They may not encompass all possible regulations and circumstances applicable to the subject matter and readers are encouraged to seek legal counsel advice prior to acting upon any of the information provided herein. SDS Advocates neither assumes nor accepts any responsibility for any loss arising to any person as a result of or any direct, indirect, special, or incidental damage resulting from raising out of or in connection with the use of this information or any material contained herein.