

November 2023

RBI's new guidelines to govern payment aggregators in cross-border transactions

On October 31, 2023, the Reserve Bank of India ("RBI") notified new guidelines ("PA-CB Guidelines") to regulate entities that process online cross-border payments. Until now, these entities were called online payment gateway service providers ("OPGSP"). Now, they will be regulated as 'Payment Aggregators – Cross Border' ("PA-CB"). Most notably, PA-CBs will need RBI's license to operate. Existing OPGSPs need to apply for the license by April 30, 2024. Interestingly, non-bank PA-CBs are also required to register with the Financial Intelligence Unit-India before registering with the RBI. The PA-CB Guidelines replace the draft Online Export Import Facilitators Directions issued in April 2022 which was abandoned by RBI post consultations with industry stakeholders.

Which entities are covered? Entities that facilitate cross-border payment transactions for the import and export of permissible goods and services in India in online mode are covered. Such entities include authorised dealer banks ("AD Banks"), Payment Aggregators ("PAs"), and PAs-CB involved in the processing of cross-border payment transactions. For example, a payment service provider that allows a seller abroad to receive payments for products sold to someone in India.

Is there a requirement to receive RBI authorisation? Yes. All non-banks who are providing PA-CB services should apply to the RBI by April 30, 2024, for authorisation as a payment system operator (PSO) under the Payment & Settlement Systems Act, 2007. They can seek authorisation under either of the 3 (three) categories *viz*, export-only, import-only, or export and import. AD Banks that provide these services do not need any separate authorisation.

What are the prerequisites to obtain RBI authorisation? Some of the key requirements are:

- 1. Registration with the Financial Intelligence Unit:** All non-bank PA-CBs should register themselves with the Financial Intelligence Unit-India (FIU-IND) as a prerequisite before applying for authorisation.
- 2. Net worth requirements:** Non-banks must have a minimum net worth of INR 15,00,00,000 (Indian Rupees fifteen crore) at the time of making the application and a minimum net worth of INR 25,00,00,000 (Indian Rupees twenty five crore) by March 31, 2026. New entities that commence operation after the date of this circular must attain a net worth of INR 25,00,00,000 (Indian Rupees twenty five crore) by the end of the third financial year of grant of authorisation. Existing PA-CBs that cannot meet this requirement must wind up their PA-CB activity by July 31, 2024.

Is there a limit on how much a PA-CB can process? Yes, PA-CBs can process a maximum of Rs 25,00,000 (Indian Rupees twenty five lakh) per unit of goods or services.

Do the payment aggregator guidelines apply to PA-CBs? Yes, PA-CBs must ensure compliance with certain specific aspects of the Payment Guidelines by January 31, 2024, including the requirement to appoint a grievance redressal officer and carry out security risk assessment to identify risk exposure and remedial measures.

What is the fund flow for import transactions? Import-only. PA-CBs must maintain an Import Collection Account (“ICA”) with an AD Bank. Payments for import transactions collected from customers need to be received in an escrow account of the PA from where monies need to be transferred to the ICA for onward settlement to the offshore merchants.

What is the fund flow for export transactions? Export-only. PA-CBs must maintain an Export Collection Account (“ECA”) with an AD Bank. The ECA may be denominated in INR or foreign currency (for which separate currency accounts are required to be maintained). An export PA-CB can undertake settlement in currencies other than INR only for merchants that are directly on-boarded by it.

Is there a requirement to conduct customer due diligence? Yes, PA-CB must undertake customer due diligence of the merchants on-boarded by it, which includes e-commerce marketplaces. Further, in case of import transactions, PA-CBs must also undertake due diligence of buyer that imports goods or services of more than INR 2,50,000 (Indian Rupees two lakh fifty thousand) per unit.

With these guidelines, the RBI has imposed a significant compliance burden on PA-CBs by subjecting them to direct regulatory supervision of the DPSS. Given the fact that cross-border payments touch domestic leg of a transaction either at origination or at the destination, RBI’s intent is to harmonise regulations across the entire payments stack, from domestic PAs to PA-CBs. This is also a clear message by the RBI that payment processing entities must undertake robust merchant onboarding, customer grievance redressal, anti-money laundering, and information security protocols. Overall, this will be a significant jump in compliance costs for these players.

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