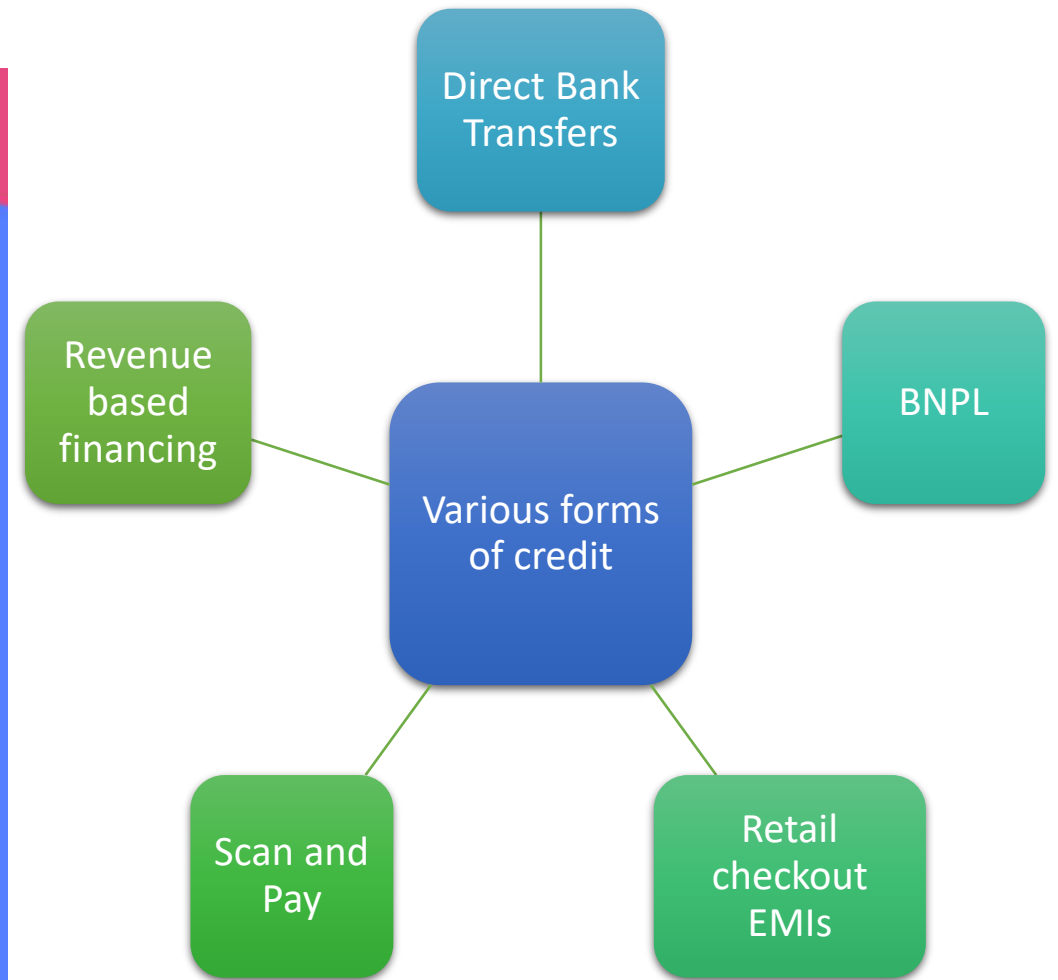


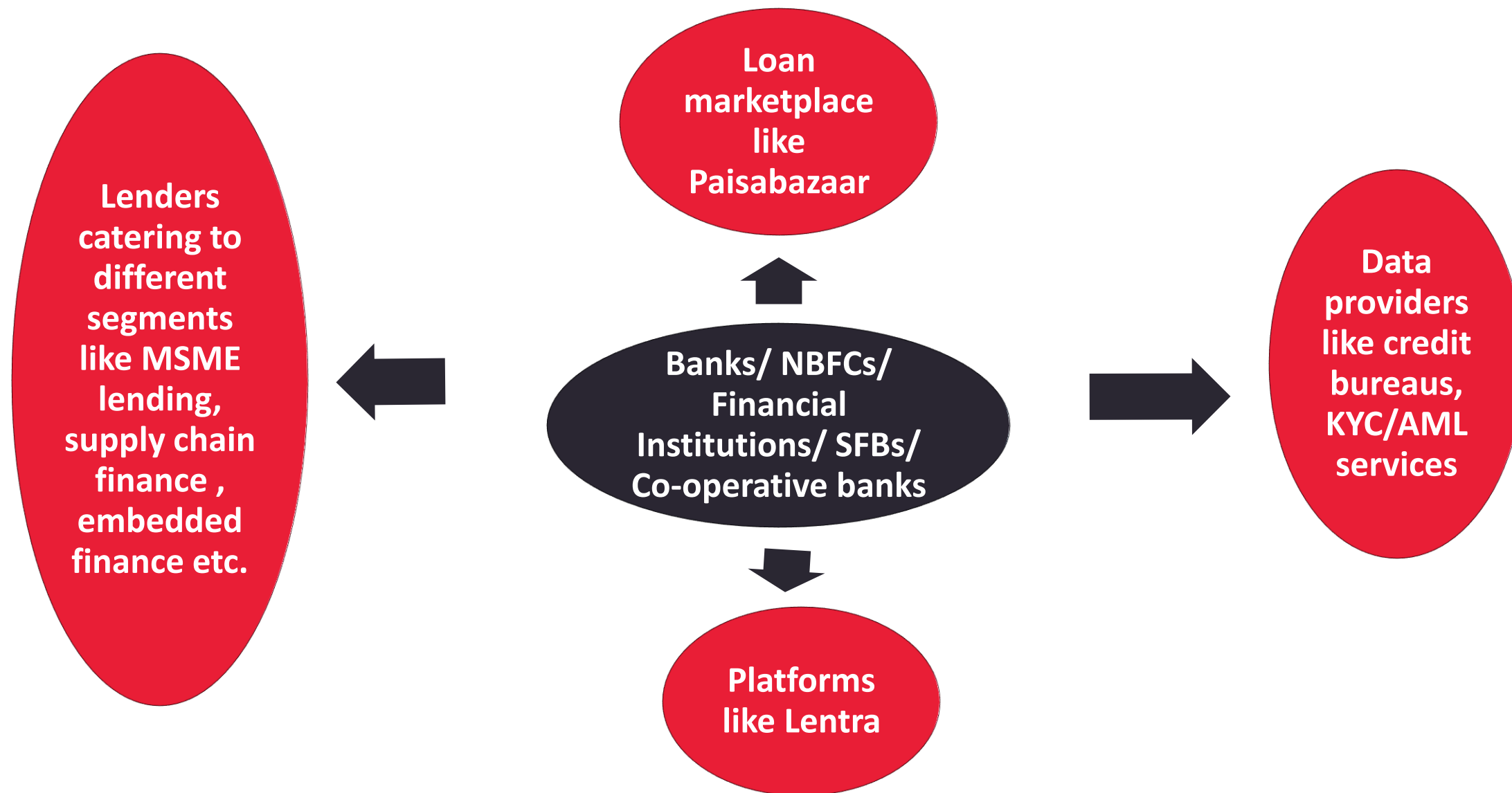
# **DIGITAL LENDING & FIRST LOSS DEFAULT GUARANTEE (FLDG)**



# ORIGIN AND EVOLUTION OF DIGITAL LENDING



## PARTIES IN A DIGITAL TRANSACTION





## REASON FOR REGULATION

Cancellation of NBFCs  
licenses due to irregular  
lending practices

Violation of rbi  
guidelines w.r.t lending  
operations by third party  
apps

Charging exorbitant  
interest rates

Undue harassment to  
customers for loan  
recovery process

Mis-selling

Breach of data privacy





## KEY REGULATIONS BY REGULATORS

### Reserve Bank of India



- ☐ Guidelines on Outsourcing
- ☐ Digital Lending Guidelines
- ☐ Guidelines on Default Loss Guarantee
- ☐ Other operational circulars etc.

### Ministry of electronics and Information Technology (MeitY)



- ☐ Information Technology Act
- ☐ Data Protection Bill



# HOW REGULATIONS ARE EVOLVING



Jan 31, 2019  
Ombudsman Scheme for  
Digital Transactions

June 24, 2020  
Adherence to FPC and  
outsourcing guidelines on  
loans sourced over digital  
lending platforms

Dec 23, 2020  
RBI cautions against  
unauthorized digital lending  
platforms/ mobile apps

Nov 18, 2021  
Report of working group on  
digital lending

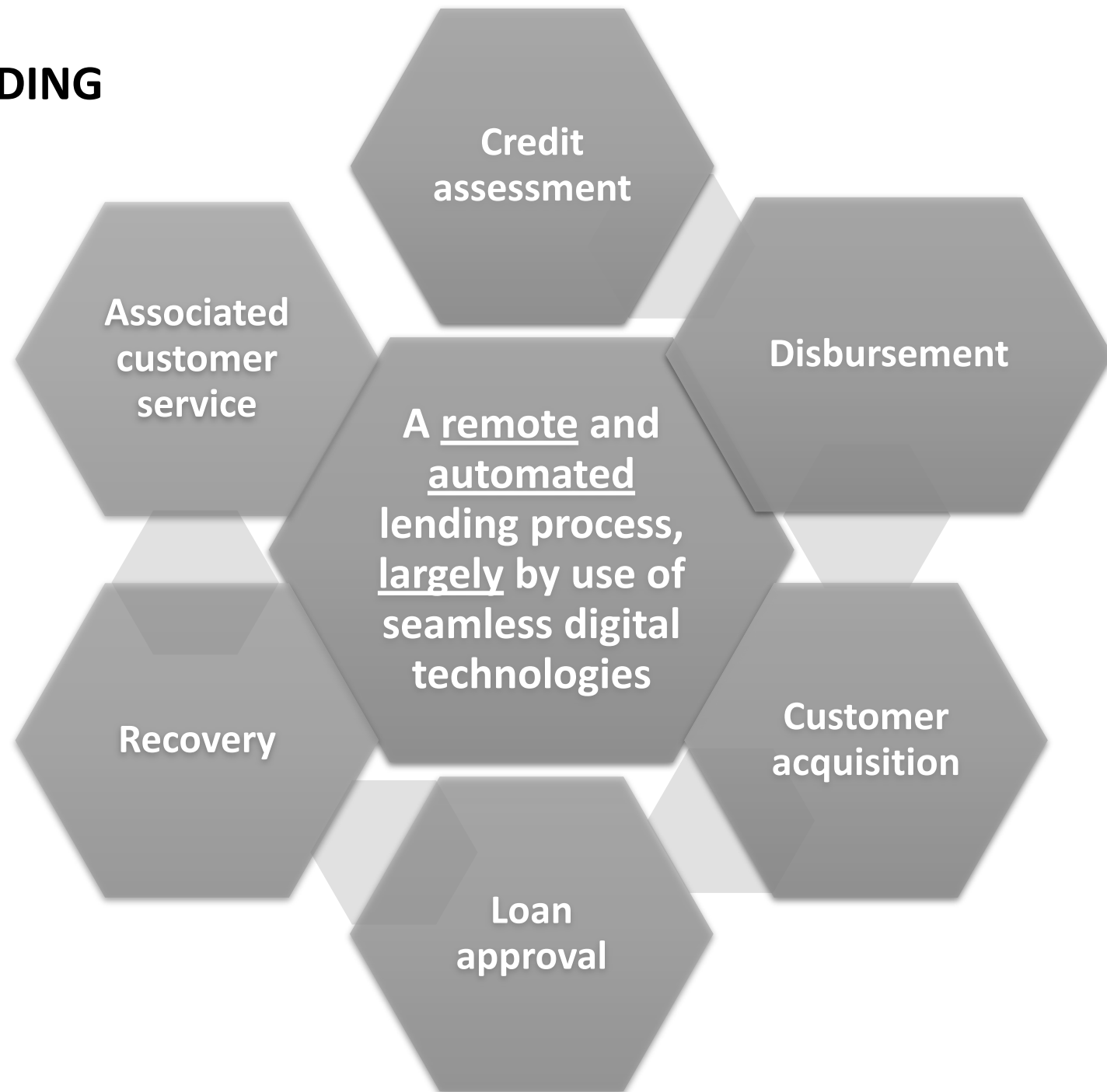
Sept 2, 2022  
Guidelines on Digital Lending

June 8, 2023  
Guidelines on Default Loss  
Guarantee in Digital Lending

August 2023  
Digital Data Protection Bill



# WHAT IS DIGITAL LENDING



## IS THIS DIGITAL LENDING?



Application form filled in tablet carried by a bank executive to customer's residence

- NO

Customer filling details on a company website which later converts into a potential lead and finally to a borrower

- NO

Only credit assessment done by a programme, rest all other activities in the loan cycle are physical

- YES





# WHO ALL COVERED UNDER THE DIGITAL LENDING GUIDELINES

NBFCs (including HFCs), All Commercial Banks, Co-operative Banks



**REGULATED ENTITIES (RE)**

**DLAs**

**LSPs**

**DLAs**

Agent of RE  
who carries out  
wholly or partly  
one or more of  
lenders functions  
in conformity  
with extant  
outsourcing  
guidelines

Mobile & web-based application with user  
interface that facilitate digital lending services



# OUTSOURCING



# OUTSOURCING OF FINANCIAL ACTIVITY



Core management functions not to be outsourced
No compromise on account of outsourcing
Cannot outsource core management functions
Do not let customer suffer for grievance on account of outsourcing



Robust grievance mechanism
Evaluate risks arising out of outsourcing
Evaluate capability of service provider and annual review of financial and operational condition of service provider
Preserve confidentiality of customer information
Train DSA/DMA/Recovery agents with proper CoC
Maintain control and right to to in



## OUTSOURCING OF IT SERVICES

Storage, computing and  
movement of data in cloud  
environments

Cloud service management and  
management and security  
considerations

In addition to  
guidelines for  
outsourcing of  
financial activities

Disaster recovery and cyber  
resilience

Outsourcing of security operations  
center



# OUTSOURCING OVER DIGITAL LENDING PLATFORMS



names of digital lending platforms engaged as agents shall be disclosed on the website of the NBFC



digital lending platforms engaged as agents shall be directed to disclose upfront to the customer, the name of the NBFC on whose behalf they are interacting



sanction letter should be issued to the borrower on letterhead of the NBFC concerned immediately after sanction but before execution of the loan agreement



copy of loan agreement along with a copy each of all enclosures quoted in the loan agreement shall be furnished to the borrowers at the time of sanction / disbursement of loans



effective oversight and monitoring shall be ensured over digital lending platform engaged by the NBFC




efforts must be made towards creation of awareness about the grievance redressal mechanism






## OUTSOURCING RELATED TO CREDIT CARD ACTIVITIES



Outsourcing not to  
compromise NBFCs  
ability to manage  
credit, liquidity and  
operational risks



DSAs to adhere to their  
own code of conduct  
for credit card  
operations



System of random  
checks and mystery  
shopping

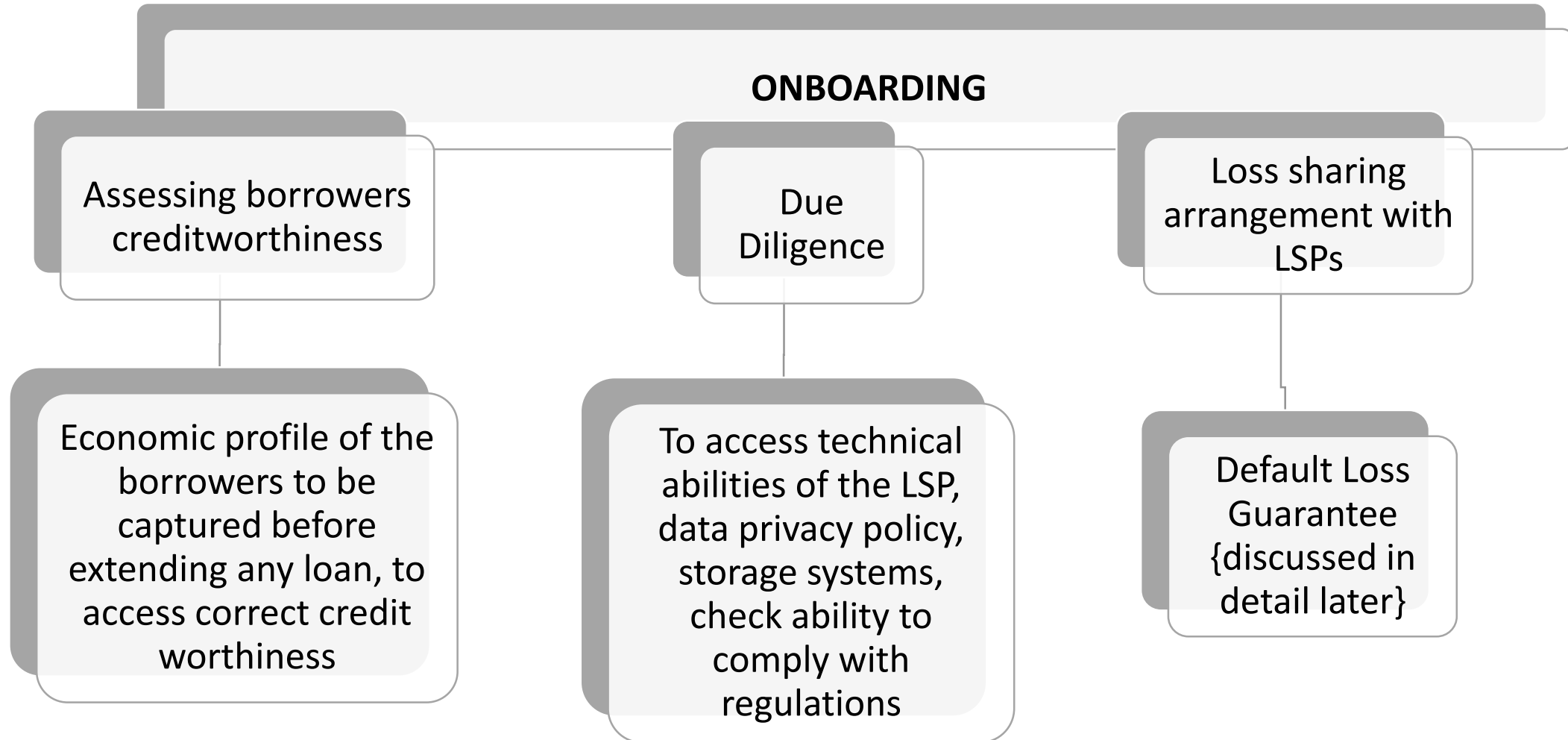




# **GUIDELINES ON 'DIGITAL LENDING' ISSUED ON 02ND SEPTEMBER 2022**



# REGULATORY PROVISIONS





## REGULATORY PROVISIONS

### DISBURSAL. SERVICING, REPAYMENT

**Disbursal in bank  
account**

**No pass through or  
pool-account of any  
third party**

**Nothing to be charged  
by LSP directly from the  
borrower**

**Any fee payable directly to  
LSPs should not be charged  
by LSP to the borrower  
directly**



## REGULATORY PROVISIONS

### DISBURSAL. SERVICING, REPAYMENT

Penal Interest/ Charges to be based on outstanding amount of the loan

Cooling-off/  
Look-up  
period

Explicit option to exit  
the digital loan  
without any penalty

For loan tenor < 7 days –  
cooling period to be not  
less than 1 day

For loan tenor 7 days or  
more - cooling period to be  
not less than 3 days



## REGULATORY PROVISIONS

### DISCLOSURES

APR (Annual Percentage Rate)

Effective annualized rate charged to the borrower.  
It is an all-inclusive cost and margin including cost of funds, credit cost, operating cost , processing fee, verification charges , maintenance charges, excluding contingent charges like penal charges , late payment charges etc.



# REGULATORY PROVISIONS

## DISCLOSURES

KFS (Key Fact Statement) Any fee not mentioned in KFS cannot be charged at any stage during the term of the loan

Any fee not mentioned in KFS cannot be charged at any stage

As per standard format provided by RBI

Penal charges

Recovery mechanism

Details of grievance redressal officer



# REGULATORY PROVISIONS

## DISCLOSURES

Product  
Information

DLAs or DLAs of their  
LSPs at on-  
boarding/sign-up stage  
to prominently display  
product features, loan  
limit and cost, *etc..*

Link to  
website

DLAs of REs and LSPs should  
have link to website where  
detailed information about the  
loan products, lender, LSP,  
particulars of customer care, link  
to Sachet Portal, privacy policies,  
*etc.* can be accessed by the  
borrowers



## REGULATORY PROVISIONS

### DISCLOSURES

Nodal Grievance  
Redressal Officer

REs and their LSPs to  
have a suitable nodal  
grievance redressal  
officer to deal digital  
lending related  
complaints/ issues  
raised by borrowers

List of  
LSPs

List of their DLAs, LSPs  
and DLAs of such LSPs  
to disclose on website  
details of activities for  
which they have been  
engaged



## REGULATORY PROVISIONS

### INFORMATION STORAGE & SHARING

Digitally Signed Documents

KFS, loan summary, sanction letter, T&C, account statements, privacy policies of LSPs/DLAs w.r.t privacy of borrowers data - On letterhead of the borrower

To automatically flow to the borrowers on their registered and verified email ID / SMS upon execution



# REGULATORY PROVISIONS

## INFORMATION STORAGE & SHARING

Data collection to be need based

With prior and explicit consent of the borrower

Borrower to be given following options  
give or deny consent for use of specific data,  
restrict disclosure to third parties,  
revoke previously given consent,  
make the app to forget or delete the data

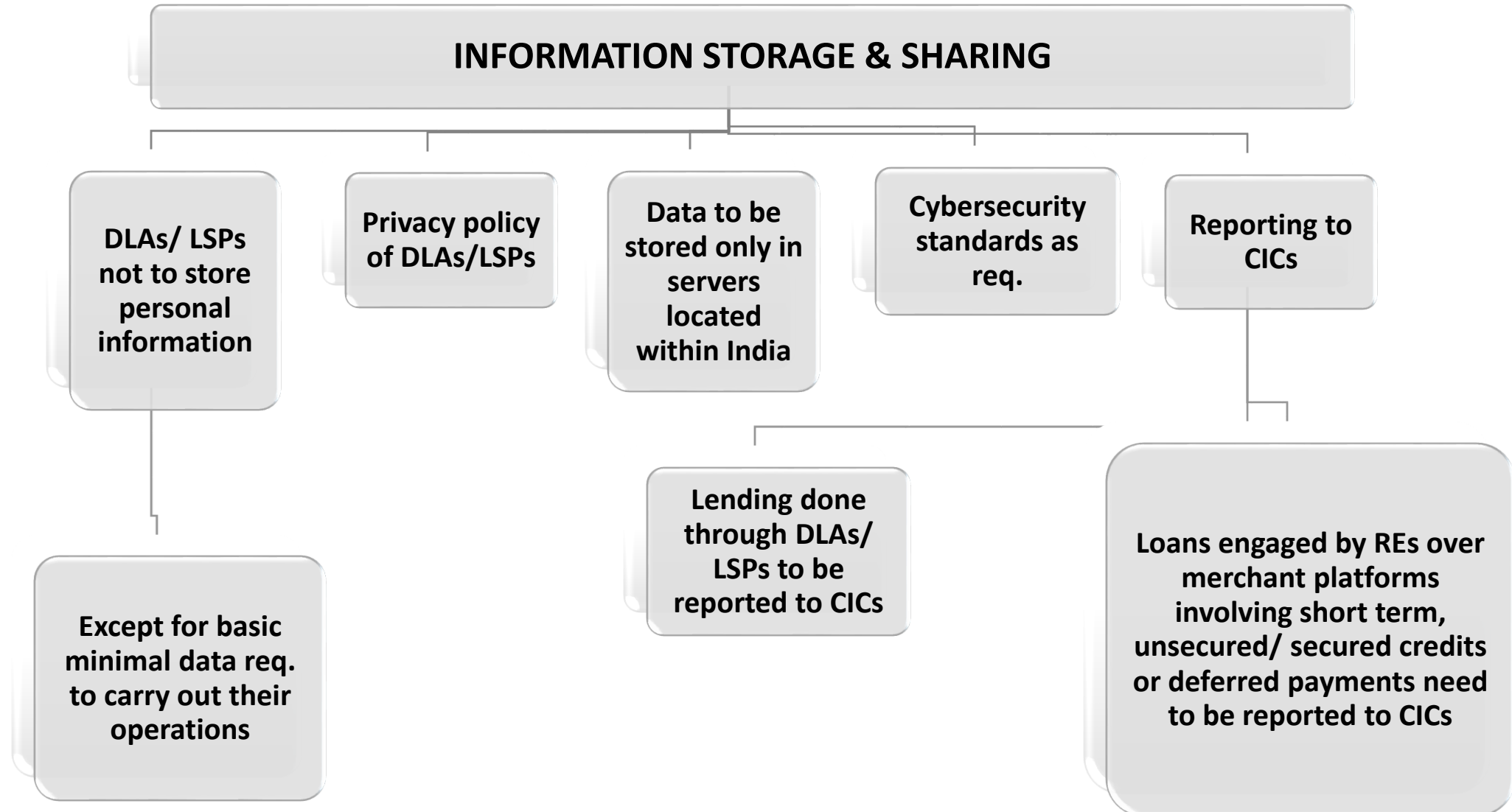
Purpose of obtaining consent needs to be shared at each stage of interface with the borrowers

Explicit consent to be obtained before sharing data with any third party





# REGULATORY PROVISIONS



# RESPONSIBILITIES WITH RESPECT TO RECOVERY AGENT

## Agents should NOT

resort to harassment of any kind either verbal or physical

Intrude upon privacy of debtors' family members, referees or friends, sending inappropriate messages

Make threatening or anonymous calls

Calling the borrower before 8:00 am and after 7:00 pm for recovery of overdue loans

Making false, misleading representations



## RESPONSIBILITIES OF DLAs/ LSPs



- ✍ Publish product information at onboarding sign-up stage
- ✍ Have links to REs website
- ✍ Have suitable Nodal Grievance Redressal Officer
- ✍ Have comprehensive privacy policy and make it publicly available
- ✍ Disclose policy guidelines related to storage of customer data



- ✍ desist from accessing mobile phone resources like file and media, contact list, call logs, telephony functions etc.
- ✍ not store personal information of borrowers except some basic minimal required data
- ✍ No biometric data is stored/collected in systems



# GRIEVANCE REDRESSAL MECHANISM



भारतीय रिज़र्व बैंक  
Reserve Bank of India  
India's Central Bank



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## COMPLAINTS

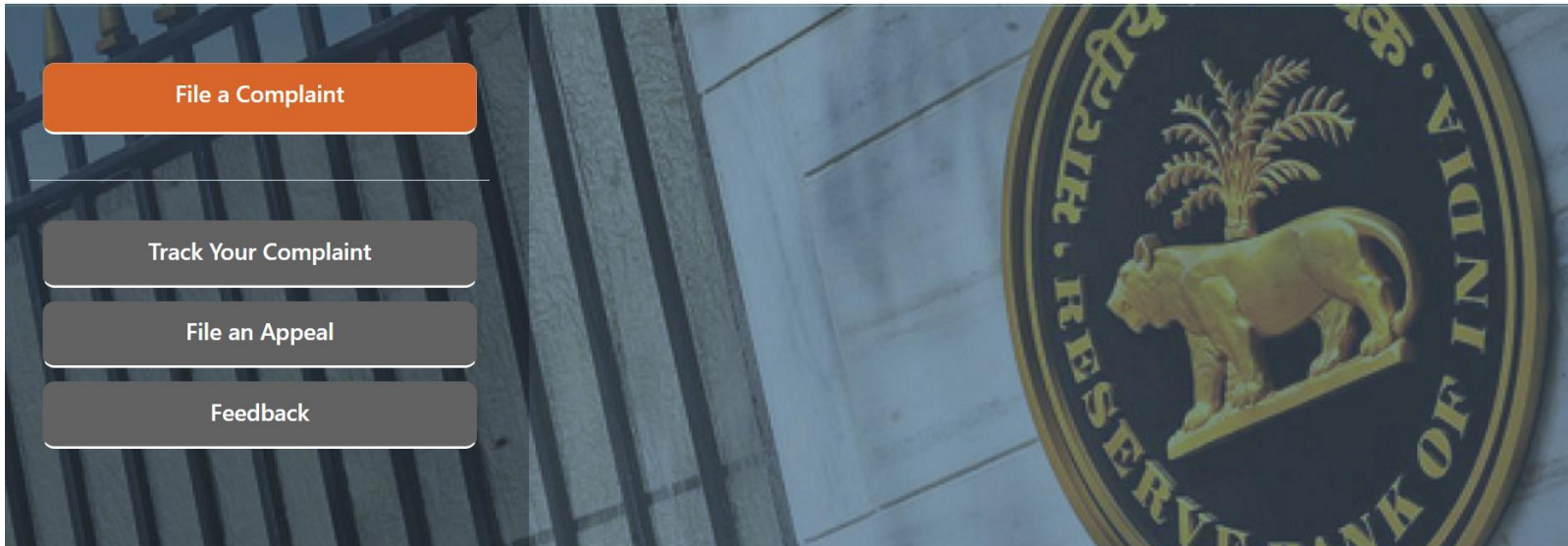
Grievance Redressal		
Lodge a complaint against specific Regulated Entity	Ombudsman Scheme	Complaints Against RBI
<a href="#">Banks</a>	<a href="#">Click here to file a complaint against any Regulated Entity (banks, NBFCs, System Participants)</a>	<a href="#">Against RBI</a>
<a href="#">NBFCs</a>	<a href="#">Reserve Bank – Integrated Ombudsman Scheme</a>	
<a href="#">Prepaid Payment Instruments (PPI)</a>	<a href="#">Addresses of the RBI Ombudsman</a>	



# GRIEVANCE REDRESSAL MECHANISM



शिकायत प्रबंध प्रणाली  
Complaint Management System



Reserve Bank - Integrated  
Ombudsman Scheme, 2021  
[View](#)



Regulated entities covered  
under Reserve Bank-Integrated  
Ombudsman Scheme, 2021  
[View](#)



Regulated entities not covered  
under Reserve Bank -  
Integrated Ombudsman  
Scheme, 2021  
[View](#)



Address of Centralised Receipt  
and Processing Centre  
[View](#)



Address of Consumer Education  
and Protection Cell  
[View](#)



## GURANTEES IN A DIGITAL LENDING

- ✎ Guidelines on digital lending stated that “LOSS SHARING ARRANGEMENTS IN CASE OF DEFAULT’, REs shall adhere to rules of synthetic securitization.
- ✎ “SYNTHETIC SECURITISATION” means a structure where credit risk of an underlying pool of exposures is transferred, in whole or in part, through the use of credit derivatives or credit guarantees that serve to hedge the credit risk of the portfolio which remains on the balance sheet of the lender.



FLDG PROHIBITED

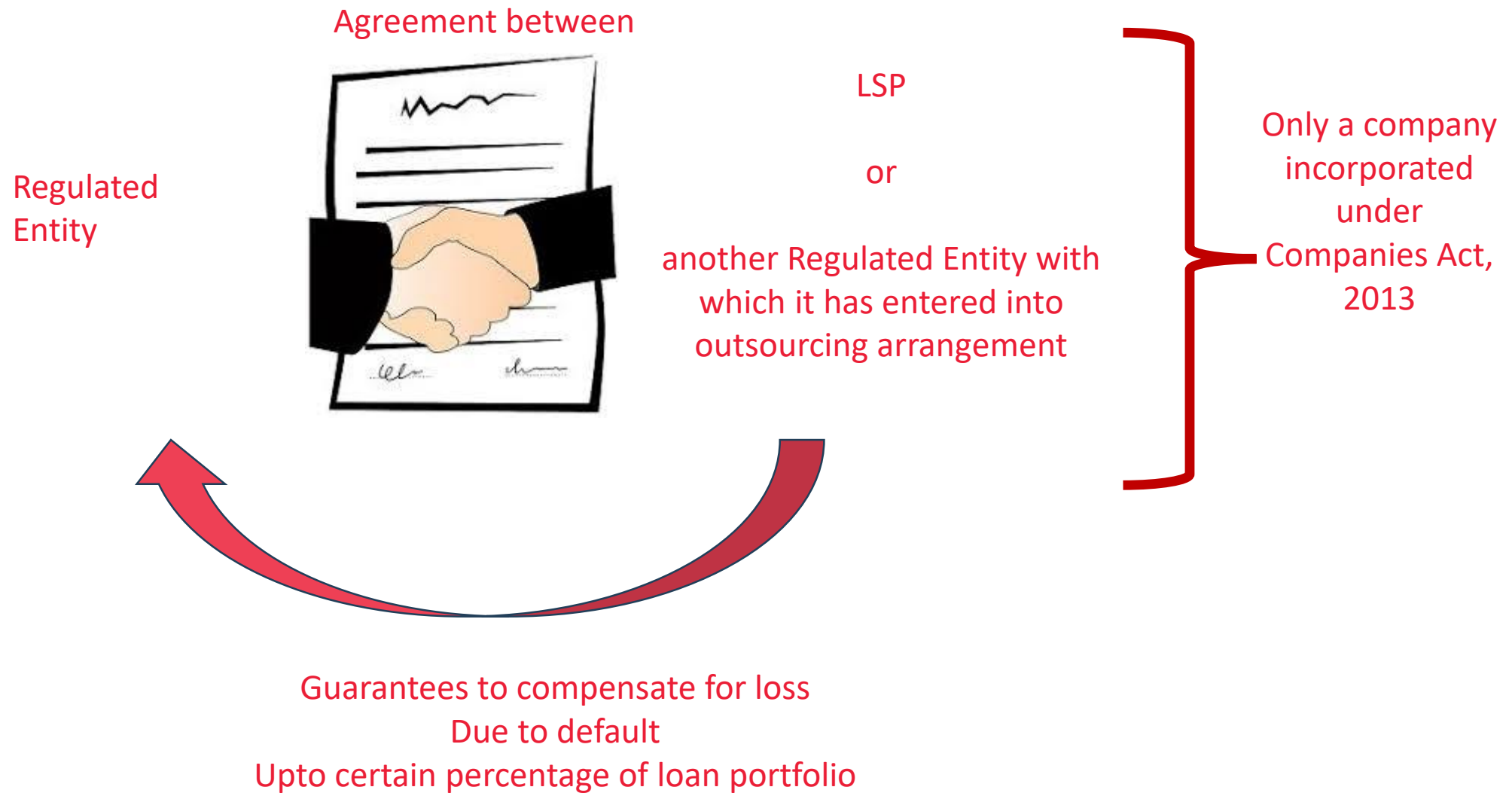




GUIDELINES ON 'DEFAULT LOSS GUARANTEE' ISSUED ON 8<sup>TH</sup> JUNE, 2023

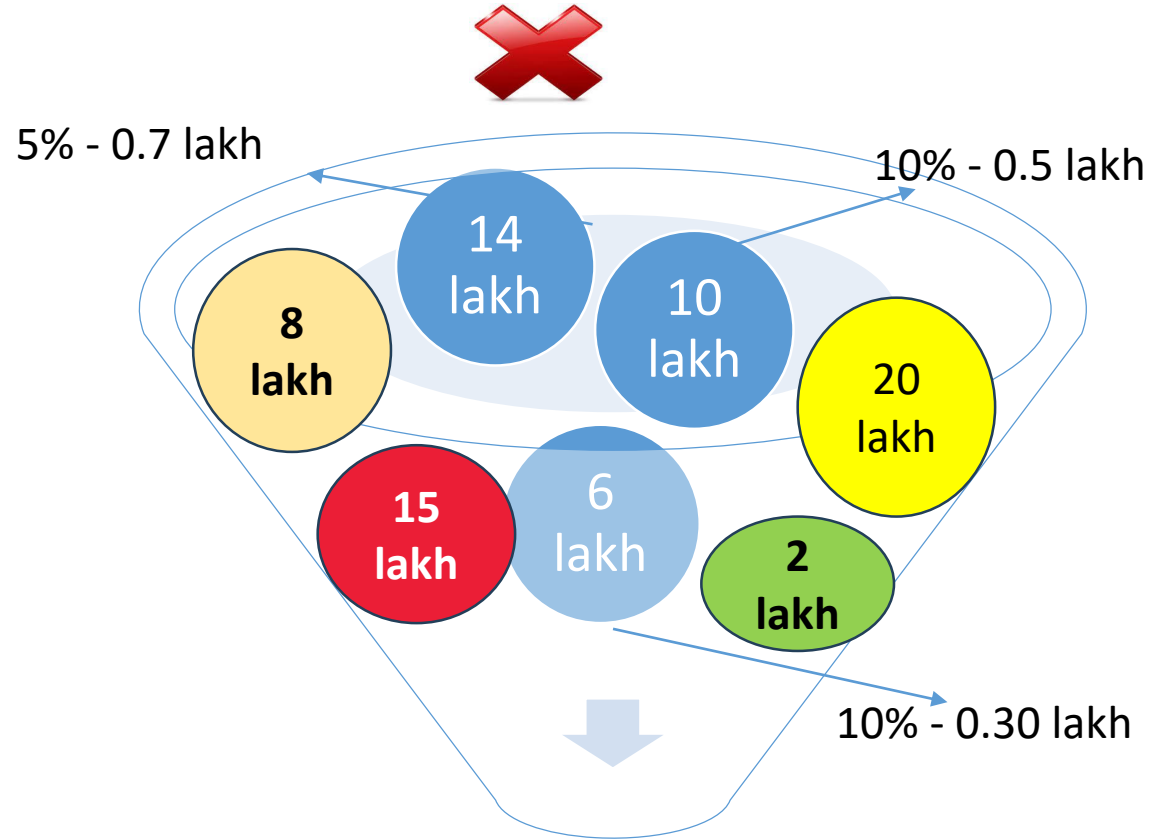
WIDELY USED AS 'FIRST LOSS DEFAULT GUARANTEE' (FLDG)

# WHAT IS FLDG?



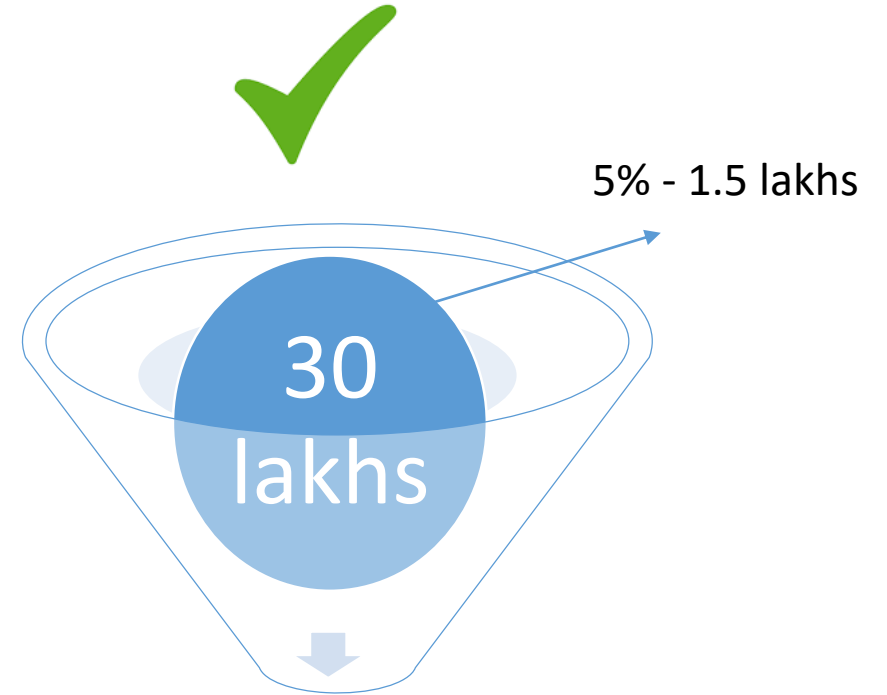


# WHAT KIND OF ARRANGEMENT IS AN FLDG?



Portfolio covered under guarantee  
30 lakhs

Portfolio not covered under guarantee 45 lakh  
Amount guaranteed  
1.5 lakhs



Portfolio covered under guarantee  
1.5 lakhs



## WHAT KIND OF GUARANTEES ARE COVERED?



Co-lending arrangement

Top-up loan added over and above the decided pool

Corporate guarantees



Second Loss Default Guarantee

Implicit guarantees

Combination of Implicit+ Explicit guarantee

# KEY AGREEMENT TERMS OF AN FLDG ARRANGEMENT



Extent of cover



☐ 5% of loan amount

Form of cover



- ☐ Cash deposit with RE
- ☐ Fixed Deposit with SCB
- ☐ Bank Guarantee in favor of RE

Timeline for invocation



☐ Within maximum overdue period of 120 days

Disclosure



☐ LSPs to publish on their website total number of portfolios and amounts offered as guarantee



# THINGS TO DO BEFORE ENTERING INTO A DLG ARRANGEMENT



Conduct due diligence of the DLG provider

Put in place board approved policy

Define Eligibility criteria of DLG provider

Process to monitor and review the arrangement

Should not act as substitute for credit appraisal requirements

Obtain declaration from DLG provider certified by statutory auditor

Declaration to contain aggregate DLG amounts outstanding with other REs , respective number of portfolios against them, past default rates on similar products



# THINGS TO DO BEFORE AND AFTER ENTERING INTO A DLG ARRANGEMENT



Regulatory Capital

NPA recognition

Ensure robust credit underwriting standards  
irrespective of DLG cover

LSPs to disclose total number of portfolios and  
amount of arrangements on their website



# **DIGITAL PERSONAL DATA PROTECTION BILL, 2023**





# DIGITAL PERSONAL DATA PROTECTION BILL, 2023

- ❖ Rights and duties of data principals i.e. person to whom the data relates
- ❖ Obligation of data fiduciaries i.e. persons, companies, government entities who process data w.r.t data processing i.e. collection, storage or any other operation on the personal data
- ❖ Financial penalties for breach of rights, duties and obligations
- ❖ Appointing data auditor and conducting periodic data protection impact assessment by data fiduciaries
- ❖ Intimate personal data breaches to affected data principal and data protection board



# THANK YOU