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SPECIAL MEASURES TO INCENTIVISE ELECTRONIC PAYMENTS

The Reserve Bank of India (the “RBI”) has issued a circular to address the special circumstances that have emerged after the demonetization drive (the “Circular”).¹

The Circular seeks to partially modify the RBI Master Circular on Issuance and Operation of Pre-paid Payment Instruments in India (the “Master Circular”)² by enhancing the issuance limits for semi-closed Pre-Paid Payment Instruments (“PPIs”) and make special dispensation for small merchants.

A summary of the key changes brought in by the Circular is set out below, together with our view on the proposed changes.

1. BACKGROUND

The primary law governing PPIs in India is the Payments and Settlements Act, 2007 (the “Act”). Section 18 and Section 10(2) of the Act empowers the RBI to make such regulations as may be required, from time to time, to regulate payments systems in India. In exercise of the same, the RBI has laid down guidelines for the issuance and operation of PPIs. PPIs are those which facilitate the purchase of goods and services against the value stored on such instruments. The value stored on such instruments represents the value paid for by the holder, by cash, by debit to a bank account, or by credit card.

The RBI has broadly classified PPIs into three categories:

1.1 Closed System Payment Instruments

These are payment instruments issued by an entity to enable the purchase of goods and services from it. These instruments do not permit cash redemption or withdrawal. A closed system PPI can be used only for payment of goods and services provided by the issuer. As these instruments do not facilitate payments and settlement for third party services, operation and issue, they do not fall within the ambit of payment systems. Hence, RBI approval is not required for issuing them.

1.2 Semi-Closed System Payment Instruments

These are payment instruments which can be used for purchase of goods and services, including financial services at a group of clearly identified merchant locations which have a specific contract with the issuer to accept the payment instruments. These instruments do not permit cash redemption or withdrawal by its holder. PPIs for amounts upto INR 10,000 (ten thousand rupees) can be issued under this category by a PPI issuer by accepting minimum details of the customer. PPIs for amount upto INR 50,000 (Indian Rupees fifty thousand) can be created in PPIs by accepting any ‘officially

¹ RBI/2016-17/150, dated November 22, 2016: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=10734&Mode=0>

² RBI/2014-2015/105, dated July 1, 2014: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=8993&Mode=0>

valid document which is compliant with anti-money laundering rules. The two kinds of semi-closed PPIs, stated above can be issued only in electronic form. PPIs for amount upto INR 1,00,000 (Indian Rupees One Lakh) can be created by following the full Know Your Client norms (“KYC”) norms in place and can be reloaded.

1.3 Open System Payment Instruments

These are payment instruments which can be used for the purchase of goods and services, including financial services such as fund transfers, they also permit cash withdrawal. However, cash withdrawal from an open system prepaid instrument is permitted only upto a limit of INR 1,000 (Indian Rupees One Thousand) per day subject to the same conditions as applicable hitherto to debit cards.

2. KEY CHANGES

Pursuant to the Circular, the RBI has made the following changes to the ‘Policy Guidelines on Issuance and Operation of Pre-paid Payment Instruments in India.’

2.1 Enhancement in issuance limits for PPIs

The RBI has specified that:

- (a) the limit of semi-closed PPIs that can be issued by accepting minimum details of the customer, as set out in the Master Circular has now been enhanced from INR 10,000 (Indian Rupees Ten Thousand) to INR 20,000 (Indian Rupees Twenty Thousand);
- (b) the total value of reloads during any given month to such PPIs shall also not exceed INR 20,000 (Indian Rupees Twenty Thousand); and
- (c) all other extant instructions in this regard shall remain unchanged.

2.2 Special dispensation for merchants

Under the existing PPI guidelines, merchants are defined as establishments who accept PPIs issued by a PPI issuer against the sale of goods and services. As a special dispensation for small merchants, PPI issuers can now issue PPIs to such merchants subject to the following:

- (a) merchants shall give a self-declaration in respect of their merchant status and details of their own bank account, which shall be kept on record by the issuer;
- (b) PPIs can be issued to such willing merchants only after due verification and validation of their bank account details;
- (c) inflows of funds or credit to such PPIs shall emanate only from sale transactions of the merchant;
- (d) while there is no minimum balance requirement, the maximum value in these PPIs shall not exceed INR 20,000 (Indian Rupees Twenty Thousand) at any point of time;
- (e) funds transfer from such PPIs are permitted only to the merchant’s own linked bank account and upto an amount of INR 50,000 (Indian Rupees Fifty Thousand) per month, without any limit per transaction; and
- (f) PPI issuers shall clearly identify such PPIs in their systems for the purpose of maintenance of escrow, reporting and management information system requirements.

The above measures shall be applicable till December 30, 2016, subject to review.

IndusLaw View:

The intention of the RBI in increasing the limits for PPIs is to provide some relief in the present demonetization scenario. The Circular allows the issue of PPIs to holders of PPIs by a PPI issuer upto a value of INR 20,000 (Indian Rupees Twenty Thousand) per month against the earlier limit of INR 10,000 (Indian Rupees Ten Thousand) per month by accepting minimum details of the customer.

Further, with a view to providing relief to small merchants in the current demonetisation scenario, the Circular has made certain exceptions for these merchants. Earlier, the Master Circular referred to the fact that merchants were only permitted to accept PPIs. However, the Circular now expressly makes a reference to, issue of PPIs to these merchants by the PPI issuers, being permitted. Small merchants can avail the facility of these PPIs by following minimum disclosure requirements (self-declaration and bank account details). Inflows of funds/ credit to such PPIs shall emanate only from sale transactions of the merchant. This Circular can be seen as strategic measure by the RBI to allow cashless transactions for the benefit of the small merchants while simultaneously ensuring transparency in relation to receipt and payment of monies by such merchants.

In addition to foregoing, the Circular also seeks to relax the earlier limit of, INR 5,000 (Indian Rupees Five Thousand) per transaction subject to a cap of INR 25,000 (Indian Rupees Twenty Five Thousand) per month, as prescribed under the Domestic Money Transfer Guidelines³ for fund transfer from semi-closed PPIs to the linked bank account of the PPI holder. The small merchants can now transfer upto INR 50,000 (Indian Rupees Fifty Thousand) per month, with no limit on the amount that can be transferred in a single transaction, to their linked bank account from the PPIs held by them.

This move by the RBI will help ease the challenges being faced by local shopkeepers and vendors as a result of the demonetization by easing compliance requirements and at the same time allowing the RBI to keep track of the funds being channeled through such systems.

It is pertinent to note that while the Circular refers to 'small merchants' and seeks to facilitate cashless transactions or their benefit, the term 'small merchant/s' has not been defined in the Circular. Till such time that the RBI provides clarity in this regard, it may be difficult to act upon the instructions issued by the RBI in order to avail of the benefits contemplated therein.

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³ RBI/2011-12/213, dated October 5, 2011: <https://rbi.org.in/scripts/NotificationUser.aspx?id=6750&Mode=0>.