

Elective Proposal

Course Title: Financial Regulation of Fintech

Instructor: Dr. Aweek Chakravarty, Assistant Professor, JGLS

Pre-requisites: None

Credit Type: Law

1. Course Description

This course offers a comprehensive analysis of the legal and regulatory framework governing financial regulation of fintech firms in India. Fintech is an broad term referring to the use of seamless digital technologies throughout the banking and financial services sector, from customer acquisition to the execution of banking and financial transactions. This includes a wide range of offerings such as digital payments, app-based digital lending, digital wallets, and digital banking services. The rise of technological innovation has changed the face of the financial sector immensely, including the increasing participation of fintech companies, development of novel technologies and financial products, as well as evolving regulatory responses to challenges regarding competition, financial stability, consumer protection etc. that have arisen consequently.

Beyond a survey of regulation, the course aims to provide students with training necessary for the development of excellent regulatory lawyers, including a strong ability to critically engage with discourses surrounding contemporary developments in the financial sector. Key focus areas of contemporary relevance will be covered, including the challenges of digital lending, personal data protection, and the evolving stances on emerging technologies like Artificial Intelligence (AI) and Central Bank Digital Currencies (CBDC). The curriculum is designed to move beyond traditional banking law to equip students with the specialized knowledge and practical skills necessary to navigate a dynamic and technologically driven financial sector.

2. Course Objectives

Upon successful completion of this course, students will be able to:

- Gain a deep understanding of the legal and regulatory architecture for fintech in India, focusing on the regulatory framework of the Reserve Bank of India (RBI) and other key institutions.
- Analyse the policy rationale behind major regulatory reforms governing fintech-led services, such as the digital lending, payments and platform-based services.

- Evaluate the legal and policy challenges of digital lending and fintech partnerships, recognizing the dual mandate of fostering innovation while ensuring consumer protection.
- Critically assess the regulatory and ethical issues surrounding data privacy and cybersecurity in the financial sector under frameworks like the Digital Personal Data Protection Act (DPDPA) and the RBI's own guidelines.
- Equip students with the skills necessary to advise clients on compliance, governance, and risk management strategies in a rapidly evolving digital financial landscape.

3. Weekly Outline

The course is structured into four modules, designed to provide students with a foundational to advanced understanding of the subject.

Module 1: The Fintech Ecosystem and Foundational Regulation (Weeks 1-3)

- **Week 1: Introduction to Fintech and the Regulatory Landscape:** Introduction to the Indian financial ecosystem and the legal basis of the RBI's authority under the Reserve Bank of India Act, 1934, Banking Regulation Act, 1949 and the Payment and Settlement Systems Act, 2007.
- **Week 2: The Regulatory Environment for Fintech:** Discussion of the emergence of fintechs as both disruptors and key stakeholders in the financial sector. The emerging regulatory framework surrounding fintech firms in the financial services industry, such as via third party service provider regulations etc. will be explored.
- **Week 3: The Catalyst for Modern Regulation:** Examination of major developments or crises that have exposed systemic vulnerabilities in the digital financial services sector. These developments will be framed as the catalyst that drove the RBI to adopt a more proactive, principle-based approach to regulation for the entire financial system, including fintech.

Module 2: Regulation of Digital Lending and Payments (Weeks 4-7)

- **Week 4: The Digital Lending Guidelines:** A comprehensive breakdown of the RBI's new Master Directions on Digital Lending, introduced to curb predatory practices of app-based lenders.
- **Week 5: Consumer Protection in Digital Lending:** A deep dive into the subject of consumer protection in the financial services sector through the lens of digital lending regulation. Key regulations in this regard will be explored, including Key Fact Statements (KFS), cooling-off periods, and the requirement for direct fund flow between the borrower and the regulated entity.
- **Week 6: Legal Framework for Payments:** A detailed study of the Payment and Settlement Systems Act, 2007, which designated the RBI as the oversight authority.

This week will cover the legal principles that govern all digital payment systems in India.

- **Week 7: The Digital Payments Ecosystem:** An analysis of India's major digital payment systems, including the Unified Payments Interface (UPI), NEFT, and RTGS, with a focus on their technical architecture and regulatory oversight by the RBI and NPCI. We will also discuss the role of Payment Aggregators and their regulation.

Module 3: Advanced Topics in Fintech Regulation (Weeks 8-10)

- **Week 8: Digital Banking Services:** Exploration of the regulatory framework for Digital Banking Units (DBUs) and the policy debate surrounding a potential full-scale digital bank licensing framework, as proposed by NITI Aayog. The broader phenomenon of the rise of e-banking services will also be discussed.
- **Week 9: Data Privacy and the DPDPA:** A survey of the Digital Personal Data Protection Act (DPDPA), focusing on its core principles of explicit consent, data minimization, and the role of the Significant Data Fiduciary. This unit will cover the implications for financial institutions.
- **Week 10: Fraud and Cybersecurity:** Exploration of the challenges involved in protection of financial consumers against fraud, phishing and other criminal offences and the regulatory setup for crime prevention and cybersecurity. Comparative regulatory developments in other jurisdictions, including case studies will be offered.

Module 4: Regulatory Frontiers and Future Outlook (Weeks 11-13)

- **Week 11: Artificial Intelligence (AI) in Finance:** Discussion of the RBI's efforts towards meeting the fresh challenges posed by increased AI integration in India's financial sector. The 2025 Framework for Responsible and Ethical Enablement of Artificial Intelligence (FREE-AI), guided by seven "sutras" for balanced innovation and risk mitigation will be examined.
- **Week 12: Digital Assets: CBDC vs. Cryptocurrencies:** Analysis of the RBI's dual approach to digital assets. There will be an assessment of the positions regarding cautious stance on private cryptocurrencies, which are viewed as speculative, with the proactive development of the Central Bank Digital Currency (e₹) and the strategic rationale for each.
- **Week 13: The Future of Fintech Law in India:** A comprehensive review of the course material, discussing how lawyers can provide strategic counsel in this dynamic field, emphasizing continuous learning and an agile legal approach in response to evolving laws.

4. Intended Learning Outcomes

Upon completion of this course, students will be able to:

- Critically analyse the legal and policy framework governing digital lending, digital payments, and digital banking services in India.
- Evaluate the effectiveness of the fintech regulations in promoting transparency and consumer protection while accommodating innovation.
- Formulate a legal strategy for a client seeking to comply with data privacy and cybersecurity mandates, such as the DPDPA and RBI Master Directions.
- Differentiate between the legal and policy frameworks for private cryptocurrencies and the Central Bank Digital Currency (e₹), and articulate the RBI's strategic rationale for each.
- Identify and assess the legal and ethical risks associated with the use of Artificial Intelligence in financial services.
- Draft legal memoranda on compliance challenges related to specific issues arising in digital financial services, citing relevant regulations and proposing risk mitigation strategies.

5. Readings

1. Ceyla Pazarbasioglu, Alfonso Garcia Mora, Mahesh Uttamchandani, Harish Natarajan, Erik Feyen, and Mathew Saal, *Digital Financial Services* (April 2020) World Bank <https://thedocs.worldbank.org/en/doc/305a39cbb6f35567db78bda6709c5cd8-0430012025/original/World-Bank-DFS-Whitepaper-DigitalFinancialServices.pdf>
2. RBI Report on Currency and Finance (2024), *India's Digital Revolution*, <https://rbi.org.in/Scripts/AnnualPublications.aspx?head=Report%20on%20Currency%20and%20Finance>
3. Alonso, C., Bhojwani, T., Hanedar, E., Prihardini, D., Uña, G., and Zhabska, K. *Stacking Up the Benefits: Lessons from India's Digital Journey*. IMF Working Paper No.2023/078(2023) <https://www.imf.org/en/Publications/WP/Issues/2023/03/31/Stacking-up-the-Benefits-Lessons-from-Indias-Digital-Journey-531692>
4. Asian Development Bank, *Capturing the Digital Economy, a Proposed Measurement Framework and its Applications: A Special Supplement to Key Indicators for Asia and the Pacific*, Asian Development Bank (2021) <https://www.adb.org/publications/capturing-digital-economy-measurement-framework>
5. D'Silva, D., Filková, Z., Packer, F., and Tiwari, S., *The Design of Digital Financial Infrastructure: Lessons from India*. BIS Paper No. 106 (2019) <https://www.bis.org/publ/bppdf/bispap106.htm>
6. Shaktikanta Das, *FinTech and the Changing Financial Landscape*. Speech at the Global Fintech Festival, Mumbai (2023) <https://www.bis.org/review/r230912g.htm>

7. T Rabi Sankar, *FinTech Innovation and approach to regulation* (2023)
<https://www.bis.org/review/r230906c.htm>
8. Doerr, S., Gambacorta, L., Leach., T., Legros, B., and Whyte, D., *Cyber Risk in Central Banking*. BIS Working Papers No. 1039 (2022)
<https://www.bis.org/publ/work1039.pdf>
9. Vijay Singh Shekhawat et al. '*Bigtechs*' in the Financial Domain: Balancing Competition and Stability, RBI Bulletin (2022)
https://www.researchgate.net/publication/364378722_'Bigtechs'_in_the_Financial_Domain_Balancing_Competition_and_Stability
10. RBI (2021) Report of the Working Group on Digital Lending including Lending through Online Platforms and Mobile Apps
<https://rbidocs.rbi.org.in/rdocs/PublicationReport/Pdfs/DIGITALLENDINGF6A90CA76A9B4B3E84AA0EBD24B307F1.PDF>