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LEGAL ASPECTS OF FINTECH IN INDIA

~ Sumeghna Paul

ABSTRACT

Fintech has widened the access to payments, credit and investment in India, but its characteristics of speed and anonymity have also enabled rising financial fraud and unauthorized advice. This paper asks whether India's legal framework is equipped enough to adequately protect the consumers on digital financial platforms. Rather than treating Fintech as a single category, it analyses two regulators: the Reserve Bank of India, which governs payments and digital lending, and the Securities and Exchange Board of India, which governs robo-advisory, algorithmic trading and unregistered "finfluencers". Using a doctrinal methodology of research, it examines statutes, directions, regulations and circulars, alongside fraud data and the Digital Personal Data Protection Act, 2023. It finds that regulation has followed market development rather than anticipating them, that several activities fit poorly within existing regulatory categories, and that regulation alone, without enforcement, cannot curb fraud without enforcement, awareness and coordination. The most significant gaps between regimes, including fragmented grievance redressal and overlapping breach-reporting duties. The paper recommends closer inter-regulatory coordination and a dedicated robo-advisory framework, proportionate influencer registration and clearer alignment with the DPDP Act.

KEYWORDS

Fintech regulation, consumer protection, RBI, SEBI, digital lending, robo-advisory, finfluencers, DPDP Act.

INTRODUCTION

Financial technology in India, popularly termed as "fintech" has fundamentally changed the way in which Indians save, borrow, lend and invest. From the widespread use of systems such

as the Unified Payments Interface (UPI) which processes billions of transactions a month to the “finfluencers” (finance influencers) sharing investment tips on social media platforms, fintech has, despite the obvious concerns, mostly delivered on its founding promise of making financial services cheaper, faster and more accessible to the entirety of the country’s population, which has been historically deprived of the same by traditional banking and broking infrastructure. Yet this same accessibility has created an increased risk, that is a steady rise in tech-enabled financial fraud, and unauthorized financial advice that abuses the very features that make fintech attractive: its speed, anonymity and accessibility.

The Reserve Bank of India’s annual report¹ for 2025-26 disclosed that while the number of reported bank frauds fell to 10,114 cases (down from 23,722 the previous year) the aggregate value involved reached around ₹48,021 crores. The number of reported fraud incidents increased from around 4.07 lakh cases involving ₹242 crore in 2021-22 to about 7.25 lakh cases (₹573 crore) in 2022-23, before almost doubling to 13.42 lakh cases (₹1087 crore) in 2023-24. While cases decreased minimally to 12.64 lakh (₹ 981 crore) in 2024-25, the current financial year has already seen a dire number of incidents, approximately ²16.29 lakh (₹1226.37 crore) in the early half, marking the highest level so far. These figures provide the basis for examining the adequacy of the existing regulatory framework.

This paper revolves around one central question: whether the existing legal and regulatory framework, governing fintech in India, is sufficient to protect consumers, in the light of the increasing number of cases of financial and cyber fraud facilitated through digital financial platforms. It opposes treating “fintech” as a single uniform category, and instead structures the analysis around two of the principle financial regulators of the country, The Reserve Bank of India, which governs payments and digital lendings, and the Securities and Exchange Board of India (SEBI) which governs the capital market side of fintech, which also includes robo advisory (explained in the later half of the paper), algorithmic trading and the rising nuisance of unregistered “finfluencers”. This bifurcation is deliberate. The paper identifies the biggest gaps in consumer protection that lie in the gray area within these two regulatory frameworks.

¹ Reserve Bank of India, Annual Report 2024–25, ch. VI, Regulation, Supervision and Financial Stability (2025).

² Kashmir Life, UPI Frauds Spike to Rs 3867 Crore, Cases Cross 53 Lakh Since 2022

RESEARCH METHODOLOGY

Using a doctrinal methodology of research, this paper mainly examines the primary legal sources, like statutes, RBI master directions, SEBI regulations and circulars, with the help of the government data on the scale of frauds occurring, and also uses various scholarly papers and articles on topics similar to the research question. The paper structure involves six parts. The first part being the introduction, the second involving a standard explanation of the regulatory framework governing fintech in India, the third part examines investment related fintech which is primarily regulated by SEBI, the fourth part examines payment and lending regulated by the RBI. The fifth part deals with the gray area within these two frameworks and also includes India's new data protection statute (the DPDP Act), while the sixth and the final part present the findings and offers recommendations, followed by a conclusion.

THE REGULATORY FRAMEWORK GOVERNING INDIA

India does not have one specific law which deals with fintech as a whole. Instead, the regulation depends on the type of financial service being provided. This means that different regulators become responsible for different fintech activities. The Reserve Bank of India (RBI) is mainly concerned with payment systems, banking and lending activities. Its authority over payment systems comes from the Payment and Settlement Systems Act, 2007,³ while its regulations of banking and lending including digital lending, is based on the Reserve Bank of India Act, 1934⁴ and the Banking Regulation Act, 1949⁵. The RBI also issues directions under provisions such as Section 35A of the Banking Regulation Act, 1949⁶.

The Securities and Exchange board of India (SEBI) deals with the investment and securities market side of fintech. This includes activities such as online broking, robo advisory, algorithmic trading and investment research. These activities are mainly regulated under the SEBI Act, 1992 and regulations made under it including the SEBI (Investment Advisers) Regulations, 2013 and the SEBI (Intermediaries) Regulations, 2008. The Insurance Regulatory and the Development Authority of India (IRDAI) separately regulates the insurance sector, including insurance technology, or "insurtech". Along with these, sector

³ Payment and Settlement Systems Act, No. 51 of 2007, §§ 4–18 (India)

⁴ Reserve Bank of India Act, No. 2 of 1934 (India)

⁵ Banking Regulation Act, No. 10 of 1949, (India)

⁶ Banking Regulation Act, No. 10 of 1949, § 35A (India)

specific regulations, the Information Technology Act, 2000⁷ also applies to electronic transactions, cyber offences and other issues arising from the use of digital technology.

This division of regulation was easier to manage when different financial services were more clearly separated. Fintech has made these boundaries less clear. A single application can now provide several financial services at the same time. For instance, a 'buy now pay later' facility offered through a payment application can involve both payment and lending activities. Similarly, an investment application may provide brokerage services as well as automated investment advice. Influencers also create a difficult regulatory question because the same person may present their content as financial education while also making statements which could amount to investment advice.

Therefore, the problem is not only that different regulators have different rules. The larger issue is that certain activities can fall between the existing regulatory frameworks. This can create gaps in consumer protection, particularly where a new fintech product combines activities which could otherwise fall under different regulators. The following part examines this issue separately from the perspective of SEBI and RBI.

INVESTMENT SIDE FINTECH UNDER SEBI

ROBO-ADVISORY REGULATION

India does not currently have a separate regulatory framework specifically for robo advisory.

⁸A robo advisory is a digital platform that provides automated, algorithm driven financial planning and investment services. These services are generally regulated through the SEBI (Investment Advisers) Regulations, 2013⁹. In effect, automated investment advice is dealt with, with the help of rules which were originally framed for human investment advisers generally.

The existing framework requires investment advisers to undertake certain activities, this framework was also amended by SEBI, but the main problem lies in this approach is that automated advice creates some issues which are different from those associated with a human investment advisor. For example, an investor may find it difficult to understand why an algorithm has produced a particular recommendation. There may also be questions regarding

⁷ Information Technology Act, No. 21 of 2000, §§ 4–5, 43, 66 (India)

⁸ See Investopedia, What Is a Robo-Advisor?, Investopedia (Aug. 4, 2025)

⁹ Securities and Exchange Board of India (Investment Advisers) Regulations, 2013, reg. 3 (India)

the transparency of the model as robo advisory carries on with little human intervention. There also exists a possibility of algorithmic bias and the challenge of who should be held responsible if an automated recommendation causes financial loss. These issues are yet to be addressed as directly as they could be under a framework specifically designed for robo advisory.

Thus, although it is not completely outside SEBI's regulatory framework, it is mainly regulated by applying existing investment adviser rules to an activity which operates differently from traditional investment advice.

ALGORITHMIC TRAINING

Algorithmic trading is another area where technological development has created new regulatory challenges. Retail investors can access automated trading strategies through third-party platforms which connect with brokers through APIs. For a considerable period, this area did not have a comprehensive framework specifically dealing with retail algorithmic trading.

Concerns increased when some platforms were associated with claims of assured or guaranteed returns. One such platform was Tradetron, in relation to which SEBI and stock exchanges issued show-cause notices to a number of brokers in 2024.

SEBI subsequently introduced a framework for retail algorithmic trading through its circular dated 4 February 2025¹⁰. The framework distinguishes between different types of algorithms, including ¹¹“white-box” algorithms where the logic is disclosed and “black-box” algorithms where the underlying strategy is not disclosed. It also places responsibilities on brokers, algo providers and stock exchanges. Requirements relating to approval, certification and disclosure were introduced before such strategies could be offered to retail investors.

The framework does not prohibit retail algorithmic trading. Instead, it attempts to make the parties involved more accountable and requires greater transparency for retail investors. At the same time, the timing of the framework is relevant to the larger argument of this paper. A detailed regulatory framework was introduced after problems relating to retail algorithmic trading had already attracted regulatory attention.

¹⁰ Securities and Exchange Board of India, *Safer Participation of Retail Investors in Algorithmic Trading*, Circular No. SEBI/HO/MIRSD/MIRSD-PoD/P/CIR/2025/0000013 (Feb. 4, 2025)

¹¹ Rajandran R., *White Box vs. Black Box Algorithms: A Simple Guide for Traders* (Nov. 26, 2025).

FINFLUENCERS AND INVESTMENT ADVICE

The growth of financial content on social media has created another difficulty for securities regulation. Individuals commonly referred to as “finfluencers” regularly discuss shares, mutual funds and other investment products online. The difficulty arises when such content moves beyond general financial education and starts functioning as investment advice.

Since many finfluencers are not registered with SEBI, they cannot simply be regulated in the same manner as registered investment advisers. SEBI therefore initially relied heavily on the regulation of registered intermediaries. Through changes to Regulation 16A of the SEBI (Intermediaries) Regulations, 2008 in 2024¹², registered intermediaries were restricted from having direct or indirect associations with unregistered persons for activities falling within the specified restrictions. These included arrangements involving financial transactions, referrals and sharing of data.

SEBI also issued further guidance in January 2025 concerning the distinction between financial education and investment advice. Among other restrictions, educational content was required to use older market data and could not contain specific trading calls or promises of returns.

SEBI's action against Avadhut Sathe¹³ and entities associated with him provide an example of the difficulty involved in making this distinction. In December 2025, SEBI passed an order which found that activities presented as financial education amounted, in substance, to unregistered investment advisory and research services. The order also involved directions concerning the securities market and the impounding of more than ₹546 crore.

The case shows that SEBI can take action when educational content is found to cross into regulated activity. However, it also raises a broader question about whether indirect regulation through registered intermediaries is enough to deal with the large number of unregistered individuals operating through social media.

¹² Securities and Exchange Board of India (Intermediaries) (Amendment) Regulations, 2024.

¹³ Securities and Exchange Board of India, In the Matter of Avadhut Sathe Trading Academy Private Limited, Ex-Parte Interim Order cum Show Cause Notice, No. QJA/KV/MIRSD/MIRSD-SEC-1/31823/2025–26 (Dec. 4, 2025)

¹⁴**PAYMENTS AND DIGITAL LENDING UNDER THE RBI**

The RBI has also had to respond to the rapid growth of fintech, particularly in the field of digital lending. App-based lending increased considerably in India, and concerns were raised about platforms which used aggressive recovery methods, charged excessive amounts or operated without being properly connected to regulated financial institutions.

In response to these developments, the RBI set up a Working Group on Digital Lending¹⁵ in January 2021. Its report, released later that year, was followed by the RBI's Digital Lending Guidelines in September 2022.

The 2022 framework introduced several important requirements. Loan disbursement and repayment were required to take place directly between the regulated entity and the borrower rather than being routed through the lending service provider or digital lending application. The guidelines also introduced the Key Fact Statement, which required borrowers to receive important information about the cost of the loan, including the annual percentage rate. Lending service providers were also prohibited from directly collecting certain fees from borrowers.

However, these rules primarily applied to regulated entities and their lending service providers. This meant that applications operating completely outside the regulated financial system presented a different problem. Such platforms could not always be dealt with through the RBI's fintech-specific regulatory framework and instead had to be dealt with through other applicable laws.

The RBI later introduced the Reserve Bank of India (Digital Lending) Directions, 2025¹⁶, replacing the earlier framework and consolidating the regulatory requirements relating to digital lending. The 2025 Directions made changes to areas including Key Fact Statement requirements, Default Loss Guarantee arrangements and the responsibilities of regulated entities and lending service providers.

The changes also show how the RBI's approach has developed as the digital lending market has changed. The regulatory framework introduced in 2022 was substantially revised within a

¹⁴ Payment and Settlement Systems Act, No. 51 of 2007, §§ 4–18

¹⁵ Reserve Bank of India, Report of the Working Group on Digital Lending Including Lending Through Online Platforms and Mobile Apps (Nov. 2021)

¹⁶ Reserve Bank of India, *Guidelines on Digital Lending*, RBI/2022-23/111, DOR.CRE.REC.66/21.07.001/2022-23 (Sept. 2, 2022)

relatively short period. This supports the view that regulation in the fintech sector often develops in response to new problems rather than entirely in anticipation of them.

The issue of fraud can also be seen on the payments side. Government and RBI data indicate that fraud involving digital payment channels has become a significant consumer concern. A large number of reported fraud cases are associated with card and digital-payment channels, although the value involved in these cases is generally smaller than fraud occurring through other channels.

This distinction is important from a consumer-protection perspective. A large number of relatively small fraudulent transactions can affect a substantial number of individual consumers, many of whom may not have the time, money or knowledge required to pursue complicated grievance procedures.

The RBI has therefore considered measures to compensate victims of certain small-value fraudulent transactions. The proposed framework includes compensation for certain victims, including cases where consumers were induced to share an OTP. However, as long as the proposed mechanism has not been formally implemented, consumers continue to depend largely on the existing banking and grievance-redressal mechanisms.

CROSS CUTTING ISSUES BETWEEN THE TWO REGULATORY BODIES AND DATA PROTECTION

Data protection is another issue which affects almost every part of the fintech sector. The Digital Personal Data Protection Act, 2023¹⁷ (DPDP Act) introduced a general framework for the processing and protection of personal data. Fintech companies, which routinely deal with sensitive financial and personal information, therefore have to consider the requirements of the DPDP Act along with the regulations applicable to their particular financial activity.

This can create difficulties because sector-specific financial regulations existed before the DPDP framework. For example, the RBI has separate requirements relating to payment data, outsourcing and digital lending. A fintech company may therefore have to comply with both financial-sector requirements and general data-protection requirements.

¹⁷ Digital Personal Data Protection Act, No. 22 of 2023 (India)

Breach reporting provides one example of this problem. Different regulatory frameworks can prescribe different reporting requirements and timelines. This means that a fintech company's compliance team may have to respond to more than one regulator when the same incident involves both financial and personal data. Clear coordination between these requirements is therefore important.

Grievance redressal presents another problem. A consumer who has suffered a loss through a fintech platform may have several possible avenues depending on the nature of the dispute. These may include the RBI Ombudsman mechanism¹⁸, SEBI's SCORES platform¹⁹, the National Cybercrime Reporting Portal or consumer forums under the Consumer Protection Act, 2019²⁰.

Each of these mechanisms has a different purpose and procedure. The difficulty arises when a single fintech product involves more than one type of financial service. In such cases, a consumer may not always know which authority should be approached first. For an individual consumer, especially one dealing with a relatively small financial loss, this can make the process of seeking redressal more difficult.

FINDINGS, RECOMMENDATIONS, AND CONCLUSION

The analysis in this paper indicates that India's fintech regulatory framework has developed considerably, but certain gaps in consumer protection continue to remain.

The first finding is that regulation has often followed developments in the market instead of anticipating them. The Digital Lending Guidelines were introduced after serious concerns had emerged regarding digital lending applications. The framework was subsequently revised in 2025. Similarly, the framework for retail algorithmic trading was introduced after concerns regarding the activities of third-party algo platforms had already emerged. The same pattern can also be seen in the regulation of finfluencers.

The second finding concerns the regulatory perimeter itself. Certain activities do not fit easily into existing categories. Robo-advisory, for example, is regulated through rules which were primarily developed for investment advisers rather than automated systems. Similarly, digital lending applications which operate completely outside the regulated financial system present

¹⁸ Reserve Bank of India, Integrated Ombudsman Scheme, 2021

¹⁹ Securities and Exchange Board of India, SEBI Complaints Redress System (SCORES)

²⁰ Consumer Protection Act, No. 35 of 2019 (India)

a different enforcement problem. Unregistered finfluencers also remain difficult to regulate directly.

The third finding is that regulation alone cannot solve the problem of digital financial fraud. The continuing occurrence of fraud indicates that enforcement, consumer awareness and coordination between regulators are equally important. A rule may provide protection on paper, but its effectiveness ultimately depends on whether consumers understand their rights and whether regulatory authorities can act quickly when violations occur.

Based on the issues discussed above, certain measures may help strengthen consumer protection in the fintech sector.

First, greater coordination between financial regulators would be useful, particularly for fintech products which combine more than one type of financial service. A mechanism involving the existing inter-regulatory structures could help identify activities which fall between regulatory boundaries.

Second, SEBI could consider whether a more specific framework is required for robo-advisory and other automated investment tools. Such a framework could address issues such as transparency of algorithms, testing and responsibility for automated recommendations.

Third, the regulation of finfluencers could be strengthened by considering a proportionate registration or disclosure mechanism for individuals who regularly provide investment-related content to large audiences. This would give SEBI a more direct regulatory connection with high-reach financial content creators while still allowing genuine financial education to continue.

Fourth, the RBI and the Ministry of Electronics and Information Technology could provide clearer guidance on how sector-specific financial regulations should operate alongside the DPDP Act. This would be particularly useful in areas such as data-breach reporting and other compliance requirements where fintech companies may currently have to deal with overlapping obligations.

Fintech has significantly changed the way financial services are provided in India. It has made payments, lending and investment services more accessible to a much larger section of

the population. At the same time, the growth of digital financial services has created new forms of consumer risk which were not always covered by the earlier regulatory framework.

The existing framework has responded to many of these problems through new regulations, amendments and enforcement actions. However, the developments discussed in this paper show that regulation often comes after a new form of fintech activity has already become widespread. The challenge for Indian regulators is therefore not simply to create more rules, but to ensure that the regulatory framework can keep pace with technological change while providing consumers with clear and effective protection.