

# From Financial Inclusion to Financial Exploitation: A Legal Appraisal of Predatory Mechanisms within India's Banking and FinTech Framework

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## Abstract

A vibrant tapestry woven with the digital threads of inclusion and rapid innovation, the Indian financial landscape is often idealised as a strong engine of economic empowerment. Beneath this polished exterior, though, there is a discordant strain where the "noise" of systemic predation is gradually replacing the "symphony" of financial services. The shift from a supportive financial ecosystem to one marked by the "Anatomy of a Financial Trap" is the subject of this paper's critical, multi-sectoral analysis. We start by analysing the Banking Trap, in which dishonest practices have been institutionalised due to internal pressures from target-driven corporate cultures. The "mis-selling" of bundled goods and the strategic use of informational asymmetry by bank employees to meet aggressive sales targets are examined in this section. Moving on to the Insurance Trap, the study looks at how the fundamental principle of *uberrimae fidei* (utmost good faith) is being undermined. We contend that by strategically utilising "material non-disclosure" clauses, this principle, which was once a defence for the insured, has been turned into a tool for systemic claim repudiation, even in situations involving policy migration and porting .

The paper also examines the Fintech industry's orchestration of the digital trap. We examine how "dark patterns" manipulative UI designs like "confirm shaming" and "forced action" are used to undermine consumer autonomy in order to support predatory payday lending and high-interest debt cycles . The historic RBI Responsible Business Conduct Amendment Directions (2026), which represent a clear jurisprudential shift from *caveat emptor* (buyer beware) to a strict regime of *vender emptor* (seller beware), are at the heart of our legal analysis . This research aims to provide a comprehensive defence framework for the "trapped" borrower by synthesising recent consumer commission precedents and the July 2026 mandates against digital coercion, advocating for the restoration of ethical equilibrium in the contemporary financial state.

## 1. INTRODUCTION: THE DISCORDANT SYMPHONY

The economy is frequently portrayed in the modern Indian narrative as a magnificent, soul-stirring symphony of advancement. The steady hum of industrial growth, the quick whirl of digital transactions, and the hopeful crescendo of millions joining the formal financial fold for the first time make up this auditory landscape. The promising threads of "Financial Inclusion," a term that has evolved from a policy aspiration to a lived reality for a sizable portion of the population, are woven throughout this colourful tapestry. But as one gets closer to this financial arrangement, a startling discordance starts to show. Beneath

the smooth promises of “easy access” and “convenience” in today’s financial system, there is a very different reality that many people quietly experience. What looks simple and empowering on the surface often hides something far more complicated - algorithms that push loans at the click of a button, aggressive sales tactics driven by targets, and repayment structures that slowly pull borrowers into cycles of debt that are hard to escape. This is the paradox of India’s financial evolution. The same tools that were designed to promote inclusion and opportunity have, in many cases, been structured in ways that work against the very people they claim to serve. What should have been instruments of financial empowerment sometimes end up functioning as mechanisms of entrapment - subtle, systemic, and deeply embedded within the modern credit ecosystem.

### 1.1. The Tapestry of Financial Inclusion: A Credit Heavy Evolution

India’s journey toward financial maturity has been remarkable, particularly in the digital era. As reflected in the Reserve Bank of India’s Financial Inclusion (FI) Index, the country’s inclusion score rose to 67.0 in March 2025, up from 64.2 the previous year<sup>1</sup>. This steady rise reflects the expanding reach of banking services, the deep penetration of digital payment systems such as UPI, and the broader integration of rural and semi-urban populations into the formal financial framework. However, this expansion has not been neutral in character. It has been heavily driven by credit. The transformation is not merely technological but structural. The traditional culture of savings that once defined Indian households is gradually being replaced by a culture of borrowing. Credit is no longer treated as a measure of last resort; it is increasingly marketed as a lifestyle enabler, packaged and promoted much like any other consumer product. In this rapidly evolving environment, the balance between access and protection becomes critical. While access to financial services has expanded swiftly, the corresponding development of consumer awareness and financial literacy has not always kept pace. The “Quality” dimension of inclusion, which includes consumer protection safeguards and financial literacy standards, often lags behind the growth in outreach and account penetration<sup>2</sup>. The result is a concerning paradox. A large section of the population is formally included within the financial system, yet remains insufficiently informed about the legal and contractual implications of the credit instruments they undertake. Many borrowers sign complex agreements without fully understanding interest structures, penalty clauses, or digital consent mechanisms. This gap between inclusion and comprehension creates conditions where misuse, overextension of credit, and predatory practices can quietly thrive.

### 1.2 Defining the “Trap”: The Thin Veil of Legality

In legal parlance, a standard commercial contract is founded upon a true “meeting of the minds” (*consensus ad idem*) between two parties who understand and agree to the same essential terms. The doctrine assumes parity in comprehension and voluntary assent. The “Financial Trap,” however, operates in the grey space where this theoretical equality collapses. It does not always amount to overt fraud capable of straightforward prosecution under criminal statutes. Rather, it consists of loan terms and institutional practices that fall between legitimate risk-based pricing and blatant fraud<sup>3</sup>. It is this intermediate zone,

<sup>1</sup> **RBI FI-Index 2025:** Official data showing the rise of financial inclusion to 67.0 and the growth of sub-indices. - <https://economictimes.indiatimes.com/industry/banking/finance/rbis-financial-inclusion-index-shows-growth-across-all-segments-rises-4-3-pc-in-fy25/articleshow/122833330.cms?from=mdr>

<sup>2</sup> **Usage and Quality Metrics:** Analysis of the sub-components of the FI-Index and the focus on consumer protection - <https://www.civildaily.com/news/financial-inclusion-index-2025/>

<sup>3</sup> **Defining Predatory Lending:** Academic and legal definitions of the "trap" as a bridge between pricing and fraud. Understanding Predatory Lending: Moving Towards a Common Definition and Workable Solutions By Deborah Goldstein September 1999

legally defensible on paper yet structurally exploitative in effect, that gives the trap its resilience. At the heart of this mechanism lies informational asymmetry. The financial institution possesses superior access to data analytics, legal expertise, behavioural modelling, and algorithmic underwriting systems. The borrower, in contrast, often enters the transaction driven by urgent liquidity needs and limited bargaining power. The imbalance is not accidental; it is embedded in the architecture of modern digital finance. A financial trap is therefore not merely an expensive loan. It is frequently a product engineered to influence consumer decision-making through behavioural design techniques commonly referred to as “Dark Patterns.” These include interface structures that subvert consumer autonomy and induce actions not fully intended or understood by the user. A common example is the practice of “basket sneaking,” where ancillary products such as insurance policies are added to a loan application without clear, informed consent<sup>4</sup>. Pre-selected checkboxes, layered disclosures, and deliberately complex cost structures further obscure the true financial burden. In such circumstances, the borrower’s “consent” becomes legally present but substantively diluted. While formal acceptance may exist through a digital signature or click-wrap agreement, the autonomy underlying that consent may be compromised by design, omission, or engineered confusion. The resulting agreement satisfies procedural legality, yet raises serious questions about the authenticity of informed consent.

### 1.3 The Jurisprudential Shift: From *Caveat Emptor* to *Vendor Emptor*

For many decades, Indian commercial jurisprudence operated under the traditional doctrine of *caveat emptor*, let the buyer beware. The underlying assumption was simple: a consumer entering into a contract was expected to exercise due diligence and protect their own interests. The law presumed vigilance, rational choice, and relative parity between the contracting parties. In today’s financial landscape, however, that assumption feels increasingly unrealistic. When lending decisions are driven by artificial intelligence, behavioural analytics, and complex underwriting models, and when terms and conditions run into dozens of digital pages rarely read or understood in full, expecting the average borrower to function as a fully informed negotiator becomes legally and practically strained. The informational and structural imbalance is simply too vast. We are now witnessing a gradual but significant jurisprudential transition. Regulatory developments such as the Reserve Bank of India’s Master Directions on Responsible Business Conduct, 2026, signal a movement away from the rigidity of *caveat emptor* toward a more accountability-oriented approach commonly described as *vendor emptor*, let the seller beware<sup>5</sup>. Under this emerging framework, the burden increasingly shifts toward the financial institution. It is no longer sufficient for a bank or fintech lender to produce a signed agreement and claim formal compliance. The expectation is evolving: institutions must demonstrate that the product offered was suitable in light of the borrower’s financial capacity, profile, and circumstances. Suitability, transparency, and responsible conduct are becoming central regulatory themes rather than optional ethical aspirations. This shift marks an important transformation in legal philosophy. The law is slowly moving from being a passive enforcer of contractual form toward becoming a more active safeguard against structural imbalance. In doing so, it begins to recognise that true consent requires more than a signature; it requires fairness in design, clarity in disclosure, and responsibility in conduct.

<sup>4</sup> **Dark Patterns Guidelines:** CCPA 2023 guidelines defining "deceptive design patterns" and "subverting autonomy." - <https://www.nls.ac.in/wp-content/uploads/2021/04/Dark-Patterns.pdf>

<sup>5</sup> **RBI 2026 Master Directions:** The shift to "Seller Beware" and the new requirements for suitability and conduct. - <https://www.sconline.com/blog/post/2025/12/10/rbi-amendment-directions-bsbd-account-rules-2026/>

## 2: THE “BANKING TRAP” (SALES & SYSTEMIC MIS-SELLING)

If the financial sector were compared to a symphony, traditional banks were once seen as its steady and dependable rhythm the stable foundation on which public trust in the financial system was built. For a long time, banks represented reliability, prudence, and fiduciary responsibility. In the modern financial environment, however, this role has increasingly shifted. The steady rhythm of responsible banking has often been replaced by intense sales pressures, aggressive product pushing, and a culture driven heavily by performance targets. Many banking institutions now operate in a highly competitive marketplace where employees are expected to meet strict sales quotas, often through cross-selling multiple financial products to the same customer. This transformation has changed the nature of the bank–customer relationship. Instead of being treated purely as clients whose financial interests must be safeguarded, customers are sometimes approached as opportunities for revenue generation targets within internal performance systems. The result is what may be described as the “**Banking Trap.**” It refers to a pattern in which systemic sales practices, incentive structures, and institutional pressure can lead to the mis-selling of financial products such as insurance policies, credit cards, personal loans, or bundled financial services. While these products may be lawful and commercially legitimate, the manner in which they are marketed or sold can blur the line between genuine financial advice and revenue-driven persuasion. This section examines how such **target-driven cultures**, aggressive cross-selling strategies, and institutional incentives can create an environment where the interests of borrowers are not always placed at the forefront. In doing so, it explores the broader structural dynamics that contribute to mis-selling and financial vulnerability within the contemporary Indian banking system.

### 2.1 The Culture of Coercion: From Stewardship to Sales Targets

The roots of the banking trap are often not found in the fine print of loan agreements, but in the internal sales environments of both private and public sector banks. Within these institutions, the role of the “Relationship Manager” (RM) was traditionally intended to represent guidance, trust, and long-term financial advice for customers. Over time, however, this role has increasingly shifted toward aggressive sales performance. Today, many RMs function less as financial advisors and more as the frontline drivers of product sales. Their performance is commonly evaluated through strict monthly targets tied to credit cards, personal loans, insurance policies, and other financial products. This transformation has contributed to what can be described as a **culture of coercion** within banking institutions. In such an environment, employees often face intense internal pressure to meet demanding quotas. Reports and industry discussions have frequently pointed to situations where failure to achieve targets may lead to disciplinary warnings, reputational pressure within teams, or fears about job security. This pressure can sometimes translate into aggressive sales tactics or the promotion of products that may not always align with the customer’s financial needs<sup>6</sup>. As a result, the focus gradually shifts from responsible financial stewardship toward meeting institutional revenue goals. When internal incentives reward sales volume above customer suitability, the risk of systemic mis-selling increases. In this way, the pressures within the banking workplace can indirectly shape the experience of borrowers, contributing to the broader structure of what may be described as the **Banking Trap.**

### 2.2 The Bancassurance Trap: Forced Bundling and Tying

One of the most common mechanisms through which the banking trap operates is the practice commonly referred to as **bancassurance bundling**. In such situations, the approval or smooth processing of a primary

<sup>6</sup> **Target Pressure on Bank Employees:** Reports on the "toxic" sales culture in Indian private banks leading to mis-selling : <https://www.thecore.in/business/indias-mis-selling-problem-cant-be-solved-by-banks-alone-859362>

financial product such as a home loan, personal loan, or credit facility is often informally linked to the purchase of an additional insurance product. These insurance policies are typically life or health plans carrying substantial premiums<sup>7</sup>. On paper, such products are usually presented as optional add-ons meant to provide financial protection to the borrower. In practice, however, borrowers frequently report that these policies are strongly encouraged during the loan process. The purchase of the insurance product may be subtly framed as necessary for faster approval, smoother documentation, or favourable processing of the loan application. From a legal and regulatory perspective, this raises concerns related to **tying and bundling**, where the availability of one product becomes indirectly dependent on the purchase of another. Such practices can potentially conflict with the principles of fair competition and consumer autonomy reflected in regulatory guidance and the broader framework monitored by the **Competition Commission of India (CCI)**. Although financial institutions often maintain that such insurance products are voluntary, the situation experienced by borrowers at the branch level can be more complex. Applicants who are in urgent need of funds may feel compelled to accept additional products without fully assessing their necessity or long-term cost implications. The consent given in such circumstances may be technically valid, yet influenced by the borrower's immediate financial vulnerability. The outcome is what may be described as a **"double financial burden."** The borrower begins their financial commitment not only with a loan liability but also with recurring insurance premiums that increase the overall cost of borrowing. For individuals already managing tight financial resources, this additional expense can significantly affect their liquidity from the very beginning of the loan lifecycle.

### 2.3 Informational Asymmetry: The *Consensus ad Idem* Illusion

A contract is considered valid only when there is *consensus ad idem*, a genuine meeting of the minds in which both parties understand and agree to the same terms in the same sense. In theory, this principle ensures fairness and clarity in contractual relationships. In practice, however, the banking trap often operates in a way that prevents such a meeting from truly taking place. This occurs primarily through **informational asymmetry**. Financial institutions possess extensive technical knowledge, legal resources, and sophisticated pricing structures, while the average borrower may have limited financial literacy or little time to carefully analyse complex loan documents. The imbalance allows complexity itself to become a strategic tool. Loan terms are frequently explained in simplified or selectively framed ways during verbal discussions. For example, a borrower may be told about a seemingly attractive **flat interest rate**, while the detailed loan agreement relies on **reducing balance calculations** or layered fee structures that significantly increase the effective cost of borrowing. These details are typically embedded within lengthy digital agreements or extensive terms and conditions that most borrowers neither read nor fully understand<sup>8</sup>. Regulatory authorities have recognised this imbalance. In response, the Reserve Bank of India introduced the requirement of a **Key Fact Statement (KFS)** a concise document intended to provide borrowers with a clear summary of the **all-in cost** of a loan, including interest rates, processing charges, and other applicable fees. The objective was to improve transparency and help borrowers understand the true financial obligation before committing to the loan. However, the effectiveness of such safeguards often depends on how they are implemented in practice. In many digital lending processes, the KFS may appear toward the final stage of the application, sometimes within a series of online confirmations and

<sup>7</sup> **Bancassurance Mis-selling:** The Finance Minister's 2024 warning to banks regarding the "forced" sale of insurance products: <https://www.thehindubusinessline.com/money-and-banking/banks-should-focus-on-core-business-not-on-mis-selling-says-fm-sitharaman/article70666286.ece>

<sup>8</sup> **RBI Key Fact Statement (KFS) Mandate:** New regulations requiring transparency in all retail and MSME loans : <https://vinodkothari.com/2024/04/the-key-to-loan-transparency-rbi-frames-kfs-norms-for-all-retail-and-msme-loans/>

click-wrap agreements. When important disclosures are embedded within complex digital interfaces or presented alongside multiple procedural steps, borrowers may still proceed without fully engaging with the information provided<sup>9</sup>. As a result, the formal structure of consent remains intact, but the substantive understanding behind it may remain incomplete. The contract may satisfy legal formalities, yet the ideal of a genuine meeting of minds – the essence of *consensus ad idem*, becomes increasingly difficult to achieve in the modern financial ecosystem.

## 2.4 Recovery as a Weapon: Extra-Judicial Coercion

The final stage of the banking trap often emerges during the recovery phase. At this point, the relationship between lender and borrower can shift dramatically. What once appeared to be a routine financial transaction may evolve into an aggressive recovery process when a borrower begins to struggle with repayments. In principle, loan recovery must follow lawful procedures and remain consistent with established legal standards, including the **doctrine of proportionality**, which requires that enforcement actions remain reasonable and justified in relation to the default involved. However, concerns have frequently been raised about recovery practices that move beyond legitimate legal processes and into forms of pressure that are disproportionate or intimidating. One commonly reported tactic involves threats of legal action that borrowers may not fully understand, such as references to **garnishee orders**, which are court-directed mechanisms allowing funds to be recovered from a third-party holding money on behalf of the debtor. While such remedies exist within the legal system, the mere threat of complex legal processes can create significant psychological pressure for borrowers who may lack access to legal guidance. Another area of concern relates to the conduct of recovery agents. The **Reserve Bank of India's guidelines on loans and recovery practices** clearly state that borrowers must be treated with dignity and that harassment or intimidation is prohibited. These guidelines also specify reasonable hours for recovery-related communication, generally between **08:00 and 19:00**, and discourage contacting relatives, neighbours, or unrelated third parties in ways that violate the borrower's privacy<sup>10</sup>. Despite these regulatory safeguards, recovery processes are sometimes carried out through third-party agencies hired by banks or non-banking financial companies. This outsourcing structure can create situations where aggressive tactics are used while the financial institution maintains formal distance from the conduct of the recovery agent. For borrowers already experiencing financial distress, such practices can significantly intensify pressure. In some cases, borrowers may feel compelled to take additional credit, such as short-term loans or "top-up" borrowing, simply to clear existing obligations. Rather than resolving the financial difficulty, this can deepen the cycle of indebtedness and prolong the borrower's financial vulnerability.

## 3: THE "INSURANCE TRAP" (THE REJECTION MACHINE)

In the broader structure of an individual's financial life, insurance is meant to function as a protective safeguard. Its purpose is to provide stability and reassurance, ensuring that when unexpected events such as illness, accidents, or emergencies occur, the financial consequences do not overwhelm the individual or their family. In principle, insurance contracts are built upon the idea of shared risk and trust, forming one of the most ethically grounded arrangements within contract law.

<sup>9</sup> **Dark Patterns in Banking Apps:** LocalCircles survey showing high rates of hidden charges and "forced action" in digital banking: <https://www.localcircles.com/a/press/page/online-banking-dark-patterns>

<sup>10</sup> **RBI Recovery Agent Guidelines:** Regulations prohibiting the harassment of borrowers and defining ethical debt collection. : <https://www.rbi.org.in/commonman/English/scripts/Notification.aspx?Id=347>

For many consumers, however, the real test of this promise arises at what may be called the “**moment of truth**” the point at which a claim is filed, often during a medical emergency or hospitalization. It is during this stage that the effectiveness of the insurance contract is truly measured. In practice, a growing number of policyholders experience a very different reality. Instead of functioning as a safety net, the claims process can sometimes become highly procedural, complex, and adversarial. Claims may be delayed, partially approved, or rejected on technical grounds that the policyholder may not have fully understood at the time of purchasing the policy. This has led to criticism that parts of the insurance ecosystem operate in a way that prioritizes risk minimization and cost control over consumer protection. The result can be a system where claim verification processes, documentation requirements, and policy exclusions create significant barriers for policyholders seeking reimbursement. This section examines how certain practices within the insurance sector can contribute to what may be described as an “**Insurance Trap.**” It explores how claim procedures, policy wording, and exclusion clauses sometimes function in ways that make it difficult for policyholders to receive the protection they believed they had purchased, thereby turning a promise of financial security into a complicated legal challenge at the very moment it is needed most.

### **3.1 *Uberrimae Fidei* Inverted: The Weaponization of Good Faith**

The foundation of every insurance contract rests on the doctrine of *uberrimae fidei*, meaning “utmost good faith.” Traditionally, this principle required the insured to disclose all material facts that could influence the insurer’s decision to provide coverage. The purpose of this doctrine was to maintain transparency and fairness in a contract where the insurer relies heavily on the information provided by the applicant. In the context of the modern **Insurance Trap**, however, critics argue that this principle can sometimes operate in a way that disadvantages policyholders. Instead of functioning solely as a safeguard for honesty, it may also become a mechanism through which insurers later challenge or deny claims. During the policy sales process, applications are often completed quickly, sometimes with the assistance of agents or relationship managers who guide the applicant through medical questionnaires and disclosure forms. In many cases, the applicant may rely heavily on the agent’s instructions when filling out digital or pre-filled forms, particularly when the questions are technical or extensive. The situation often changes when a claim is submitted. At that stage, insurers may conduct detailed investigations into the policyholder’s past medical history and documentation. If the insurer identifies an omission or inaccurate disclosure that is considered “material,” it may argue that the policy itself is invalid due to non-disclosure. In some cases, insurers may attempt to treat the policy as void *ab initio* meaning invalid from the very beginning even if premiums have been paid for a substantial period<sup>11</sup>. For consumers, this can create a sense of uncertainty within a product that is meant to provide financial security. While insurance is purchased to offer protection against unforeseen events, the reliance on strict disclosure standards and retrospective investigations can leave policyholders feeling that the coverage they believed was guaranteed may ultimately depend on technical interpretations of past disclosures.

### **3.2 The “Pre-Existing Disease” Loophole: A Logical Dissonance**

One of the most frequently debated aspects of insurance disputes involves the **Pre-Existing Disease (PED) clause**. This clause allows insurers to deny or limit claims if the medical condition for which treatment is sought existed before the policy was taken or before the waiting period had expired. While such clauses are intended to prevent misuse of insurance coverage, their interpretation has often become a point of contention between insurers and policyholders. In many claim disputes, insurers attempt to link

<sup>11</sup> **Mis-selling in Insurance:** Analysis of how agents skip disclosures to close sales, leading to claim rejections: <https://www.thecore.in/business/indias-mis-selling-problem-cant-be-solved-by-banks-alone-859362>

the present medical condition with a previously existing ailment that was not disclosed during the policy application. The connection may sometimes be indirect. For example, a claim related to a sudden cardiac event might be questioned if the insurer discovers that the policyholder had experienced hypertension or a related health issue several years earlier. In such cases, the insurer may argue that the earlier condition constituted a material fact that should have been disclosed at the time of purchasing the policy. This approach can create what appears to be a logical conflict for policyholders. A condition that seemed minor or unrelated at the time of purchasing the policy may later be interpreted as relevant during the claims process. As a result, disputes frequently arise over what qualifies as a “material” medical disclosure and whether the policyholder had a reasonable obligation to report it. Indian courts have addressed this issue in several decisions. In *Manmohan Nanda (DR.) v. United India Assurance Co. Ltd.*, the **Supreme Court of India** observed that when an insurer issues a policy after conducting or requiring a medical examination, it may not later reject a claim on the basis of conditions that were either disclosed or could reasonably have been detected during that examination<sup>12</sup>. The ruling emphasized that insurers cannot rely on post-claim investigations to avoid liability where adequate opportunity for assessment existed at the underwriting stage. Despite such judicial guidance, disputes over PED clauses continue to appear before **Consumer Commissions** across the country. For many policyholders, pursuing a claim denial through legal channels can involve time, procedural complexity, and financial cost. Consequently, the process of challenging a repudiated claim may itself become a significant burden for the consumer, even when legal precedent may support their position.

### 3.3 Technical Obstructionism: The Porting and Renewal Trap

Another challenge arises when policyholders attempt to exercise their right to **insurance portability**. Portability was introduced as a consumer protection measure, allowing individuals to shift from one insurer to another while retaining the benefits accumulated under their existing policy, such as credit for waiting periods and coverage history. The objective was to encourage competition among insurers while protecting policyholders from losing the advantages of long-term coverage. In practice, however, portability can sometimes create complications. When a policyholder moves to a new insurer in search of better coverage or more reasonable premiums, the new insurer may subject the application to fresh underwriting scrutiny. In some situations, this may lead to disputes over whether the previous policy benefits, including waiting period credits or coverage continuity, should be fully recognised. Judicial authorities have increasingly addressed such issues. Certain court decisions, including observations from the **Bombay High Court**, have emphasized that insurers cannot rely on administrative issues such as internal system changes or technical migration problems to deny continuity of benefits when a policyholder has ported their policy in accordance with regulatory guidelines and in good faith<sup>13</sup>. In addition to judicial developments, regulatory reforms have also attempted to strengthen policyholder protection. The **Insurance Regulatory and Development Authority of India (IRDAI)** introduced provisions such as the **moratorium period** through its Master Circular of 2024. Under this framework, once a policy has remained in force continuously for **60 months**, the insurer is generally restricted from

<sup>12</sup> **Supreme Court on PED:** *Manmohan Nanda v. United India Assurance* – Judgment on the duty of insurers after medical tests:

<https://www.casemine.com/judgement/in/590a0f1d4a932663936d1e85#:~:text=The%20court%20held%20that%20the,the%20policy%20were%20rightly%20invoked.>

<sup>13</sup> **Porting & Technical Rejections:** Bombay HC ruling against Care Health Insurance for rejecting a ported claim due to system issues: <https://www.livelaw.in/high-court/bombay-high-court/bombay-high-court-rules-insurer-cannot-deny-claim-negligent-handling-of-insurance-premium-cheque-514259>

questioning the policy on grounds of non-disclosure, except in cases involving proven fraud<sup>14</sup>. Despite these safeguards, practical difficulties can still arise in areas such as policy renewal and continuity. For example, if a renewal payment is delayed or if administrative lapses occur during policy servicing, insurers may sometimes treat the policy as having lapsed. Such interruptions in continuity can potentially reset waiting periods or other protections tied to uninterrupted coverage. For consumers, these technical and procedural aspects of insurance administration can create uncertainty. While regulatory reforms aim to strengthen transparency and continuity, the effectiveness of these protections ultimately depends on consistent implementation by insurers and clear communication with policyholders regarding their rights and obligations.

### 3.4 *Contra Proferentem* in Practice: The Judicial Shield

To address disputes arising from complex insurance policy wording, Indian courts have frequently applied the doctrine of *contra proferentem*. This principle provides that when the terms of a contract are ambiguous, they should be interpreted against the party that drafted them. Since insurance policies are typically **adhesion contracts** standardised agreements prepared entirely by the insurer and presented to consumers on a take-it-or-leave-it basis the rule often operates in favour of the policyholder<sup>15</sup>. The doctrine has therefore become an important judicial safeguard in insurance litigation. When exclusion clauses or technical conditions within a policy are unclear or capable of multiple interpretations, courts have tended to adopt the interpretation that best protects the insured party. The reasoning behind this approach is straightforward: the insurer, as the drafter of the contract, bears the responsibility for ensuring that policy terms are clear, transparent, and understandable. Indian courts have also increasingly emphasized that insurers must take reasonable steps to ensure that significant exclusions are properly communicated to policyholders at the time the policy is sold. If an insurer cannot demonstrate that crucial limitations or exclusions were clearly disclosed and explained, courts may decline to enforce those provisions. In such situations, reliance on obscure or poorly communicated “fine print” is viewed as inconsistent with principles of fairness in consumer contracts. Through the application of *contra proferentem* and related consumer protection principles, the judiciary plays a corrective role in the insurance framework. These judicial interventions reinforce the idea that contractual fairness requires not only formal consent but also clarity in the obligations and limitations that form part of the agreement. In doing so, courts contribute to a broader legal trend that increasingly holds insurers accountable for the transparency and precision of the contracts they place before consumers.

## 4. THE “FINTECH & PAYDAY TRAP” (DIGITAL PREDATION)

The rise of financial technology was widely celebrated as a transformative development in modern finance. Fintech platforms promised to make financial services faster, more accessible, and more inclusive, particularly for individuals who had historically remained outside the formal banking system. Through mobile applications and digital lending platforms, borrowers could now access credit within minutes, often without the lengthy procedures associated with traditional banks. In principle, this technological shift represented a significant opportunity to expand financial inclusion. Digital platforms were expected to reduce barriers to credit, simplify documentation, and provide borrowers with flexible financial solutions.

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<sup>14</sup> **IRDAI 2024 Master Circular:** New rules on the 5-year moratorium and mandatory claim settlement timelines: IRDAI: Master Circular on Health Insurance Business (May 2024)

<sup>15</sup> ***Contra Proferentem* Doctrine:** Supreme Court application of the doctrine to protect consumers from ambiguous insurance clauses: <https://blog.ipleaders.in/doctrine-contra-proferentem/>

In practice, however, the rapid growth of digital lending has also introduced new risks. In an environment where technology evolves faster than regulation, certain fintech models have developed lending practices that raise serious consumer protection concerns. High-speed loan approvals, minimal verification procedures, and complex fee structures can sometimes place borrowers in vulnerable financial positions. This environment has given rise to what may be described as the “**Payday Trap**.” Short-term digital loans, often marketed as instant or emergency credit, may carry extremely high effective interest rates once processing charges, platform fees, and penalty structures are included. Because these loans are typically repaid within very short timeframes, borrowers who fail to repay on schedule may quickly find themselves rolling over the debt or taking additional loans to cover previous obligations. Digital interface design can also influence borrower behaviour. Certain lending applications have been criticized for using “**dark patterns**” design techniques that encourage quick acceptance of loan terms through simplified prompts, pre-selected options, or limited visibility of the full cost of borrowing. When combined with the speed and convenience of mobile lending, these design strategies can reduce the likelihood that borrowers fully evaluate the financial consequences of the transaction. This section examines how the combination of **instant credit, algorithmic decision-making, and behavioural design** can sometimes transform financial innovation into a system that exposes borrowers to rapid cycles of debt. By analysing these mechanisms, it explores how technological convenience, when insufficiently regulated, can shift from empowering consumers to creating new forms of digital financial vulnerability.

#### 4.1 The Architecture of Manipulation: Dark Patterns in UI/UX

In the digital lending ecosystem, the mechanisms that shape borrower behaviour are not physical or visible in the traditional sense. Instead, they are embedded within the design of mobile applications and digital interfaces. The structure of a platform’s **user interface (UI)** and **user experience (UX)** can significantly influence how users interact with financial products. A growing area of concern involves the use of **dark patterns**, design strategies that guide users toward decisions they may not have consciously intended to make. These patterns rely on behavioural insights and interface design techniques that subtly influence user choices during the application or checkout process<sup>16</sup>. Within fintech lending applications, such design practices may appear in several forms. One example is **confirm shaming**, where the interface frames a user’s decision to decline an optional product in a negative or discouraging way. For instance, a borrower attempting to opt out of an additional insurance rider or protection plan may encounter language suggesting that declining the option means rejecting safety or financial protection. Another common technique is **basket sneaking**, where additional charges, such as platform fees, membership subscriptions, or optional insurance products, are automatically added to the loan structure during the final stage of the application process. Because these additions may appear late in the confirmation sequence or be embedded within multiple screens of a digital agreement, borrowers may proceed without fully recognizing the additional financial commitments being created. These interface strategies illustrate how the architecture of digital platforms can influence financial decisions. When applied within lending applications that promise **instant approval and minimal friction**, such design elements may reduce the likelihood that borrowers carefully review the full cost and conditions associated with the credit being offered.

#### 4.2 The Payday Debt Spiral: Small-Ticket, High-Velocity Ruin

A defining feature of many payday-style digital lending platforms is the **small-ticket loan model**. These platforms typically offer very small loans, often ranging from **₹2,000 to ₹10,000**, marketed as quick

<sup>16</sup> **Dark Patterns Defined:** CCPA 2023 guidelines on deceptive UI/UX in Indian digital markets: [https://trilegal.com/knowledge\\_repository/guidelines-for-prevention-and-regulation-of-dark-patterns-2023/](https://trilegal.com/knowledge_repository/guidelines-for-prevention-and-regulation-of-dark-patterns-2023/)

solutions for short-term financial needs. Because the application process is simple and approval is almost immediate, such loans can attract individuals who may not qualify for traditional bank credit or who require urgent liquidity. While the principal amount may appear modest, the overall cost of borrowing can be significantly higher than it initially appears. Many platforms include a combination of **processing charges, service fees, subscription costs, or platform fees** that are disclosed across different stages of the loan process. When these charges are taken into account, the effective **Annual Percentage Rate (APR)** can rise dramatically, sometimes exceeding **30% to 100%** in practice. This pricing structure is often associated with what economists refer to as **drip pricing**, where the full cost of a service becomes visible only after multiple steps in the transaction process<sup>17</sup>. The short repayment window is another factor that contributes to financial strain. Many digital payday loans require repayment within **7 to 15 days**, a period that may be difficult for borrowers already experiencing financial pressure. If repayment cannot be completed within this limited timeframe, borrowers may face late fees, penalty charges, or restrictions on accessing further services. At this stage, some platforms offer additional borrowing options such as **rollover loans** or **top-up credit** designed to help borrowers manage the immediate repayment obligation. While these options may appear helpful in the short term, they can also lead to a compounding cycle of fees and new borrowing if used repeatedly. Over time, the borrower may find that the primary challenge is no longer repaying the original loan amount but managing the accumulated charges and successive borrowing required to maintain repayment schedules. This dynamic can create a **debt spiral**, where short-term credit intended as temporary relief gradually evolves into a recurring financial burden.

#### 4.3 Digital Privacy as Collateral: The Extra-Judicial Extraction

In many digital lending environments, the concept of collateral takes on a different form. Unlike traditional loans that may require physical assets such as property or gold as security, some fintech lending platforms rely heavily on access to a borrower's **digital data**. During the installation or registration process, certain lending applications request extensive permissions to access information stored on the user's smartphone, including contact lists, location data, device identifiers, and media files<sup>18</sup>. These permissions are often presented as part of the standard terms required for identity verification, fraud prevention, or credit risk assessment. However, concerns have been raised by regulators and cybersecurity experts regarding the extent of data access requested by some digital lending applications and how such information may be used. In cases where borrowers are unable to repay loans within the required time frame, there have been reports of recovery practices that rely on the misuse of personal data obtained through these permissions. Some complaints have alleged that recovery agents contacted individuals from the borrower's contact list such as friends, family members, or professional associates while attempting to pressure the borrower to repay the loan. Such practices raise serious legal and constitutional concerns. The **Right to Privacy**, recognized by the **Supreme Court of India in Justice K.S. Puttaswamy v. Union of India**, establishes privacy as a fundamental right under Article 21 of the Constitution. Any misuse of personal data, harassment of third parties, or threats involving personal information may therefore conflict with both constitutional protections and consumer protection laws<sup>19</sup>. Regulatory bodies, including the **Reserve**

<sup>17</sup> **Digital Coercion:** LiveLaw analysis of how "Confirm Shaming" subverts consumer autonomy: <https://www.livelaw.in/lawschool/articles/dark-patterns-and-psychological-exploitation-in-indian-digital-markets-310174>

<sup>18</sup> **Digital Lending Harassment:** RBI Working Group report on the illegal use of contact lists for recovery: <https://economictimes.indiatimes.com/wealth/save/harassment-by-loan-recovery-agents-and-mis-selling-on-rbi-radar-draft-guidelines-on-mis-selling-loan-recovery-to-be-issued/articleshow/127971306.cms?from=mdr>

<sup>19</sup> **Privacy Violations:** News report on the impact of "Contact Scraping" and the resulting social shaming in India.: <https://www.mymudra.com/blog/fake-loan-app-list#:~:text=Why%20Is%20There%20a%20Surge,Verify%20Loan%20Apps>

**Bank of India (RBI)**, have issued guidelines aimed at regulating digital lending practices and limiting the collection and use of borrower data by lending applications. These measures seek to ensure that recovery practices remain lawful, proportionate, and respectful of the borrower's dignity and privacy. The issues surrounding data access and digital recovery methods illustrate how technology can reshape the dynamics of credit enforcement. When personal data becomes intertwined with the lending process, the boundaries between financial risk management and personal privacy become increasingly significant within the legal framework governing digital finance.

#### 4.4 The 2026 Regulatory Shield: Strengthening Digital Lending Oversight

In response to the growing concerns surrounding digital lending practices, regulatory authorities in India have begun strengthening the framework governing fintech platforms. The **Reserve Bank of India (RBI)** has introduced a series of guidelines aimed at improving transparency, accountability, and consumer protection within the rapidly expanding digital credit ecosystem. Recent regulatory directions emphasize the need for **fair digital interface design and responsible lending conduct**. These measures discourage the use of deceptive or manipulative design features within lending applications and require platforms to present loan terms, fees, and repayment obligations in a clear and accessible manner. The goal is to ensure that borrowers are able to make informed financial decisions without being influenced by hidden prompts or confusing interface structures<sup>20</sup> Another emerging regulatory principle focuses on **lender responsibility in credit assessment**. Digital lenders are expected to implement appropriate checks to evaluate a borrower's repayment capacity before extending credit. The emphasis on responsible lending reflects a broader regulatory effort to ensure that rapid, technology-driven loan approvals do not bypass fundamental safeguards that protect borrowers from unsustainable debt obligations. These developments reflect a shift toward what may be described as **algorithmic accountability** in financial services. While fintech platforms rely heavily on automated systems and data-driven decision-making, regulatory expectations increasingly require that these systems operate within transparent and responsible parameters. Financial institutions cannot rely solely on automated approval mechanisms without ensuring that the underlying lending practices comply with consumer protection standards. Taken together, these reforms signal a broader attempt to balance **technological innovation with regulatory oversight**. By strengthening disclosure requirements, limiting manipulative interface practices, and emphasizing responsible credit evaluation, regulators aim to ensure that the speed and convenience offered by digital finance remain aligned with the principles of fairness, transparency, and legal accountability.

### 5. THE “TECHNOLOGICAL TRAP” (AI, ALGORITHMS & CIBIL 2.0)

In earlier decades of banking, credit decisions were largely influenced by human evaluation. Local branch managers often assessed borrowers not only through financial documents but also through personal knowledge of their background, reputation, and economic circumstances. Creditworthiness was therefore shaped by a combination of financial records and human judgment. In the modern financial system, however, much of this decision-making has shifted toward **data-driven technologies**. Banks, non-banking financial companies, and fintech platforms increasingly rely on **algorithmic credit scoring models and artificial intelligence** to evaluate loan applications. These systems process large volumes of financial data in order to produce instant risk assessments and credit eligibility scores. Such technological systems offer several advantages. They can process applications rapidly, reduce operational costs, and expand credit

<sup>20</sup> **RBI 2026 Directions:** The July 2026 deadline for banks and NBFCs to remove all dark patterns from their digital interfaces : <https://www.scconline.com/blog/post/2025/12/10/rbi-amendment-directions-bsbd-account-rules-2026/>

access to individuals who might otherwise remain outside traditional banking channels. In principle, algorithmic lending promises greater efficiency and broader financial inclusion. At the same time, these technologies introduce new challenges. Many algorithmic scoring systems operate within what is commonly referred to as a “**black box**” environment, where the internal logic behind automated decisions is not fully visible to borrowers. When a loan application is rejected or credit terms are altered based on algorithmic scoring, the borrower may have limited understanding of the factors influencing that decision. The evolution of credit assessment mechanisms, including newer forms of **credit scoring frameworks and expanded data-based evaluation systems**, therefore raises important questions about transparency, fairness, and accountability in digital finance. As these systems continue to shape access to credit, their design and governance become central issues within financial regulation. This section examines how the increasing reliance on **AI-driven credit scoring and advanced credit bureau systems** may create new structural challenges within the financial ecosystem. In particular, it explores how algorithmic decision-making, data dependencies, and automated scoring models can influence the distribution of credit and potentially introduce new forms of financial vulnerability for borrowers.

### 5.1 The Black Box of Credit Scoring: The Myth of Objective Data

A central feature of the emerging technological trap lies in the transformation of credit scoring systems. Traditional credit evaluation relied primarily on **historical financial behaviour** such as repayment records, loan defaults, and credit utilization to determine a borrower’s creditworthiness. These indicators were relatively straightforward and largely based on financial transactions recorded within the banking system. In recent years, however, the credit assessment landscape has evolved significantly. Modern scoring models increasingly incorporate **predictive analytics and artificial intelligence**, often referred to in industry discussions as next-generation or **alternative data credit scoring systems**. These models may draw upon a wide range of non-traditional data points, including payment patterns for utilities, digital transaction behaviour, and other forms of consumer data generated through digital platforms<sup>21</sup>. While such approaches can potentially broaden access to credit, particularly for individuals with limited formal credit history, they also introduce complex questions about **transparency and accountability**. Many of these algorithmic models operate within proprietary systems where the internal logic of decision-making remains confidential. As a result, when a borrower’s application is rejected or when the individual is assigned a higher risk category, the specific reasoning behind that outcome may not always be clearly communicated. This lack of visibility can create challenges for consumers attempting to understand or challenge automated financial decisions. The issue becomes particularly relevant in light of evolving data protection frameworks such as the **Digital Personal Data Protection Act, 2023**, which emphasizes the rights of individuals referred to as **data principals** to know how their personal data is collected, processed, and used<sup>22</sup>. As financial institutions increasingly rely on automated systems, the question of **algorithmic explainability** becomes more significant. Borrowers affected by automated decisions may seek clarity regarding the data points that influenced the outcome and the role those data points played in determining their credit eligibility. Without sufficient transparency, the decision-making process may appear opaque to the individuals whose financial opportunities are directly affected by it. The rise of AI-driven credit evaluation therefore raises broader legal and ethical questions about how automated systems should

<sup>21</sup> **CIBIL 2.0 & Alternative Data:** Analysis of how TransUnion CIBIL’s updated models use broader data sets: <https://newsroom.transunion.com/cibil-and-transunion-launch-cibil-transunion-score-20/>

<sup>22</sup> **DPDP Act 2023:** The official text regarding the rights of data principals to notice and transparency: <https://www.meity.gov.in/static/uploads/2024/06/2bf1f0e9f04e6fb4f8fef35e82c42aa5.pdf>

operate within regulated financial environments. Ensuring fairness, transparency, and meaningful oversight remains a key challenge as technology continues to reshape the mechanisms through which credit is granted or denied.

### 5.2 Algorithmic Bias and Digital Redlining

As financial institutions increasingly rely on automated credit assessment systems, concerns have emerged about the potential for **algorithmic bias** within these technologies. Artificial intelligence models are typically trained on large sets of historical financial data. While this allows them to identify patterns and predict risk efficiently, it can also lead to the unintended replication of existing social and economic inequalities present in the underlying data. This phenomenon is often described as **digital redlining**. The term refers to situations where algorithmic systems indirectly disadvantage certain groups or communities based on patterns found in historical datasets. For instance, if past lending data reflects lower credit access in certain geographic areas, occupations, or income brackets, an algorithm trained on such data may treat applicants from those categories as higher risk even when individual applicants demonstrate stable financial behaviour<sup>23</sup>. Such outcomes may not arise from deliberate discrimination but from the way predictive models learn from historical trends. Nevertheless, the practical effect can be significant. Borrowers from certain locations or socio-economic backgrounds may face higher rejection rates or be offered credit only under less favourable terms. From a legal and policy perspective, these concerns intersect with broader principles of **fairness and equality** within the financial system. The Indian constitutional framework, particularly the principles embodied in **Article 14**, emphasizes equality before the law and protection against arbitrary treatment. While private credit decisions are not identical to state actions, the growing reliance on algorithmic systems in essential financial services raises important questions about how fairness and accountability should be maintained in automated decision-making environments. If algorithmic scoring models consistently categorize certain communities as high-risk without adequately considering individual financial behaviour, the effect may be a form of structural exclusion from mainstream credit. Borrowers who are unable to access traditional lending channels may then turn to higher-cost alternatives, which can further deepen financial vulnerability. For this reason, regulators and policymakers increasingly emphasize the importance of **algorithmic transparency, auditing, and oversight**. As digital finance continues to evolve, ensuring that automated credit systems operate in a fair, accountable, and non-discriminatory manner remains an essential challenge within the modern financial ecosystem.

### 5.3 Automated Mis-selling: The “Recommended for You” Trap

The technological trap does not operate only through the denial of credit. Increasingly, digital platforms are also capable of **actively promoting financial products** through automated recommendation systems. Modern banking and fintech applications often rely on **predictive analytics and behavioural data** to personalize the products displayed to users within the application interface. By analysing transaction histories, spending patterns, and usage behaviour, these systems attempt to identify moments when a user may be more receptive to financial offers. The result is a personalized “nudge” environment in which certain products such as personal loans, credit lines, or investment-linked insurance products are presented prominently within the app interface. These recommendations are frequently framed as tailored

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<sup>23</sup> **Algorithmic Bias in Finance:** Research on how automated systems can perpetuate financial exclusion and redlining: [https://www.womensworldbanking.org/wp-content/uploads/2024/03/Algorithmic\\_Bias\\_Primer.pdf](https://www.womensworldbanking.org/wp-content/uploads/2024/03/Algorithmic_Bias_Primer.pdf)

suggestions designed to match the user's financial profile<sup>24</sup>. While personalization can improve user experience, concerns arise when recommendation systems prioritize **high-revenue or high-commission products** rather than those that may be most appropriate for the user's financial situation. Because the decision-making process behind these recommendations is driven by automated models, the promotional push may occur without any direct human interaction, replacing the traditional role previously played by relationship managers or financial advisors. From a regulatory perspective, this raises questions about **responsible product recommendation and consumer protection** in digital financial services. Automated systems that influence financial decisions must operate within frameworks that ensure transparency and fairness. If recommendation algorithms consistently guide users toward products that are unsuitable or financially burdensome, the issue moves beyond marketing and into the realm of potential mis-selling. Regulatory bodies have begun paying closer attention to such practices. Policy discussions surrounding responsible digital finance increasingly emphasize **algorithmic accountability**, requiring financial institutions to demonstrate that automated recommendations align with the principles of suitability, transparency, and fair conduct. Under evolving regulatory frameworks governing responsible business conduct in financial services, institutions may be expected to ensure that algorithmic product suggestions are based on legitimate consumer needs rather than purely commercial incentives<sup>25</sup>. As artificial intelligence becomes more deeply integrated into financial platforms, the challenge lies in balancing technological efficiency with ethical responsibility. Automated recommendation systems must therefore be designed in a way that preserves consumer autonomy and ensures that digital convenience does not inadvertently steer users toward financially harmful decisions.

#### 5.4 The Legal Shield: Toward Algorithmic Transparency

As financial institutions increasingly rely on automated decision-making systems, legal and regulatory frameworks are beginning to evolve in response. The growing influence of artificial intelligence in credit assessment, product recommendations, and risk evaluation has raised important questions about transparency, accountability, and consumer rights in digital finance. Legislative developments such as the **Digital Personal Data Protection Act, 2023 (DPDP Act)** emphasize the rights of individuals, referred to as **data principals**, to understand how their personal data is collected, processed, and utilized. These principles highlight the importance of transparency when personal data is used to make decisions that significantly affect an individual's financial opportunities. In parallel, financial regulators have begun issuing guidance that encourages greater clarity and responsibility in the deployment of automated systems within the financial sector. These developments reflect a broader regulatory movement toward what is often described as **algorithmic transparency and auditability**. Under this evolving approach, financial institutions may be required to demonstrate that automated decisions—such as credit approvals, risk classifications, or product recommendations—can be explained and justified in understandable terms rather than remaining entirely within opaque technological systems<sup>26</sup>. The emphasis on explainability seeks to ensure that automated tools remain subject to meaningful oversight. When a borrower is affected by a technology-driven decision, regulators and policymakers increasingly recognize the importance of

<sup>24</sup> **Predictive Mis-selling:** How banking apps use data to "nudge" users into high-commission products: <https://www.thecore.in/business/indias-mis-selling-problem-cant-be-solved-by-banks-alone-859362>

<sup>25</sup> **RBI 2026 Conduct Directions:** Mandates for ethical AI design and removal of "forced actions" in digital banking: <https://www.sconline.com/blog/post/2025/12/10/rbi-amendment-directions-bsbd-account-rules-2026/>

<sup>26</sup> **Right to Explanation:** Legal discussions on the necessity of transparency in automated decision-making: [https://www.researchgate.net/publication/312597416\\_Why\\_a\\_Right\\_to\\_Explanation\\_of\\_Automated\\_Decision-Making\\_Does\\_Not\\_Exist\\_in\\_the\\_General\\_Data\\_Protection\\_Regulation](https://www.researchgate.net/publication/312597416_Why_a_Right_to_Explanation_of_Automated_Decision-Making_Does_Not_Exist_in_the_General_Data_Protection_Regulation)

providing mechanisms through which that decision can be reviewed, understood, and, if necessary, challenged. In this sense, the emerging legal framework attempts to balance **technological innovation with consumer protection**. Artificial intelligence and data-driven financial systems can significantly improve efficiency and expand access to services, but their operation must remain aligned with legal principles such as fairness, proportionality, and transparency. Ultimately, the goal of these regulatory efforts is to ensure that technology functions as a tool that enhances financial inclusion rather than one that silently shapes financial outcomes without accountability. By strengthening oversight of algorithmic systems, the legal system seeks to maintain a financial environment in which technological progress operates alongside clear standards of fairness and responsibility.

## 6. THE REGULATORY SHIELD: NAVIGATING THE 2026 LANDSCAPE

The earlier sections of this paper examined the various structural vulnerabilities that can arise within modern financial systems from aggressive sales practices and insurance claim disputes to digital lending risks and algorithmic decision-making. The final section shifts focus toward the **regulatory mechanisms** that seek to address these challenges and strengthen consumer protection. In recent years, the regulatory environment governing financial services in India has undergone significant development. Regulators have increasingly recognized that the rapid expansion of digital finance, complex financial products, and automated decision-making systems requires a more proactive framework to safeguard consumers and maintain trust in the financial ecosystem. Within this evolving landscape, institutions such as the **Reserve Bank of India (RBI)**, the **Insurance Regulatory and Development Authority of India (IRDAI)**, and other regulatory bodies have introduced measures aimed at improving transparency, responsible conduct, and accountability in financial services. These efforts reflect a gradual shift away from a purely disclosure-based system where consumers were expected to independently evaluate complex financial products toward a **conduct-based regulatory model** that places greater responsibility on institutions offering those products. Under this approach, financial service providers are increasingly expected to ensure that their products are suitable, clearly explained, and marketed in a manner that does not exploit informational asymmetries or behavioural vulnerabilities. Regulatory attention now extends beyond the formal wording of contracts to the broader conduct of institutions, including sales practices, product design, digital interface behaviour, and algorithmic decision-making. In this sense, the regulatory framework is evolving from a system that primarily enforced contractual compliance to one that actively monitors **institutional behaviour and consumer outcomes**. The aim is not only to prevent misconduct but also to create a financial environment in which transparency, fairness, and responsible innovation form the foundation of long-term trust. This section therefore examines how the contemporary regulatory landscape seeks to balance **financial innovation with consumer protection**, marking an important transition toward a more structured and accountable financial system in India.

### 6.1. The RBI Responsible Business Conduct (2026): The "Seller Beware" Mandate

The most significant jurisprudential shift in recent decades is the formalization of the **"Suitability Standard"** under the **RBI Master Direction on Responsible Business Conduct (2026)**. For years, the financial industry relied on the cold doctrine of *caveat emptor*, placing the burden of due diligence entirely on the borrower. The 2026 mandate effectively inverts this, establishing a regime of **Vender Emptor**, Let the Seller Beware. Under this new mandate, it is no longer sufficient for an institution to produce a signed consent form. The institution must now demonstrate a *Suo Motu* (on its own motion) effort to ensure that the product be it a complex derivative, a bundled insurance policy, or a high-interest payday loan, was

suitable for the customer's specific financial literacy and income level. Furthermore, the **July 1, 2026 deadline** marks the end of "Digital Coercion." All regulated entities must have purged their digital interfaces of **Dark Patterns**, such as "forced action" and "interface interference," or face severe penal consequences under the **Consumer Protection Act, 2019**<sup>27</sup>. This represents a return to a "Harmonious Symphony," where the lender's profit is legally tethered to the borrower's prosperity.

### 6.2 The Right to Refund: Restitution as a Corrective Mechanism

Regulatory protection becomes meaningful only when it provides effective remedies for consumers who have already suffered harm. One of the emerging principles within the evolving regulatory landscape is the strengthening of **consumer restitution mechanisms** in cases involving financial mis-selling or unfair lending practices. Historically, borrowers seeking compensation for mis-sold financial products often faced significant procedural and evidentiary challenges. Establishing fraud, coercion, or misrepresentation required detailed proof, which many consumers found difficult to gather. Recent regulatory approaches seek to simplify this process by strengthening the position of consumers in disputes involving **bundled financial products, hidden charges, or unclear interest structures**. Under evolving consumer protection and financial conduct frameworks, regulators increasingly recognize the need for a **rebuttable presumption in favour of the consumer** in situations where products may have been improperly bundled or where key financial terms were not transparently disclosed<sup>28</sup>. In such cases, the burden may shift toward the financial institution to demonstrate that the product was clearly explained, voluntarily accepted, and suitable for the consumer. Where mis-selling is established, remedial measures may include the **refund of improperly charged premiums, service fees, or associated charges**, sometimes accompanied by interest calculated in line with applicable lending rates. The objective of such remedies is not merely to penalize institutions but to restore the consumer to the financial position they would have occupied had the unfair transaction not occurred. This approach reflects an important evolution in regulatory thinking. Instead of relying solely on administrative penalties imposed on institutions, the framework increasingly emphasizes **direct financial restoration for affected consumers**. By ensuring that improper sales practices lead to tangible financial consequences, regulators aim to discourage conduct that prioritizes short-term revenue generation over transparent and responsible customer engagement. In broader terms, restitution mechanisms help align the incentives within financial institutions. When unfair practices become economically disadvantageous, the institutional focus gradually shifts toward clearer disclosure, suitable product recommendations, and responsible financial conduct principles that are essential for maintaining trust in the financial system.

### 6.3 Alternative Dispute Resolution (ADR): The Chamber of Resolution

An important component of the evolving regulatory landscape is the growing emphasis on **Alternative Dispute Resolution (ADR)** mechanisms within the financial sector. Traditionally, borrowers seeking relief for banking disputes had to rely on formal litigation through forums such as **Debt Recovery Tribunals (DRTs)** or **Consumer Commissions**. While these mechanisms remain important, the process can sometimes be time-consuming, complex, and financially demanding for individual consumers. To address these challenges, regulatory frameworks have increasingly promoted faster and more accessible dispute resolution channels. One of the key developments in this area is the strengthening of the **Reserve**

<sup>27</sup> **RBI Master Direction (Conduct):** <https://timesofindia.indiatimes.com/business/financial-literacy/banking/from-sales-pitch-to-suitability-check-what-rbis-draft-mis-selling-rules-could-mean-for-your-money/articleshow/128748406.cms>

<sup>28</sup> **Restitution and Mis-selling:** Analysis of the legal requirement for banks to refund interest and premiums in mis-selling cases: <https://www.angelone.in/news/personal-finance/banks-must-refund-customers-for-misselling-under-rbi-s-new-draft-rules>

**Bank of India's Integrated Ombudsman Scheme (RB-IOS).** The Ombudsman mechanism provides consumers with a structured platform to raise complaints against banks and regulated financial institutions without immediately resorting to formal court proceedings. Over time, the Ombudsman framework has expanded both in scope and in the remedies available to consumers. In appropriate cases involving issues such as service deficiencies, harassment, or certain forms of digital transaction disputes, the scheme allows for compensation awards that may reach substantial amounts, depending on the nature and severity of the grievance<sup>29</sup>. This development reflects an effort to make regulatory grievance mechanisms more effective and responsive. Alongside the Ombudsman framework, **Online Dispute Resolution (ODR)** platforms are also emerging as a complementary mechanism for resolving financial disputes. ODR systems use digital technologies to facilitate negotiation, mediation, or arbitration between parties, enabling disputes to be addressed without requiring physical hearings. These platforms aim to improve accessibility and reduce delays, particularly in cases involving smaller financial claims. At the same time, the expansion of technology-driven dispute resolution raises important considerations. While digital platforms can improve efficiency, it is essential that they continue to respect core principles of **procedural fairness, transparency, and voluntary participation**. If not carefully regulated, there is a risk that speed and convenience could overshadow the safeguards necessary to ensure balanced outcomes for consumers<sup>30</sup>. For ADR mechanisms to function effectively within the financial system, they must combine **technological efficiency with the principles of natural justice**. A dispute resolution system that is both accessible and fair can play a critical role in maintaining trust between consumers and financial institutions while ensuring that grievances are addressed promptly and equitably.

## 7. CONCLUSION & POLICY RECOMMENDATIONS

As this study reaches its concluding stage, the discussion shifts from identifying systemic challenges to considering the **pathways toward resolution and reform**. The preceding chapters have examined several structural vulnerabilities within the financial ecosystem, including aggressive sales practices, insurance claim disputes, digital lending risks, and the increasing influence of algorithmic decision-making. Together, these developments illustrate how the broader project of financial inclusion can sometimes be complicated by institutional practices that place consumers at a disadvantage. At the same time, the evolving **regulatory landscape** demonstrates that these challenges are not beyond correction. Recent reforms introduced by financial regulators signal a growing recognition that modern financial systems require stronger frameworks of accountability, transparency, and consumer protection. The regulatory developments discussed throughout this paper reflect an effort to ensure that financial innovation operates alongside robust safeguards for borrowers and policyholders. The transition toward a **conduct-based regulatory model**, combined with enhanced data protection laws and improved dispute resolution mechanisms, indicates that the legal system is gradually adapting to the complexities of digital finance. These reforms aim not only to correct past imbalances but also to prevent new forms of systemic risk as technology continues to reshape financial services. From a policy perspective, the long-term objective should be to build a financial environment where **innovation, consumer protection, and institutional accountability coexist in balance**. Achieving this objective requires sustained cooperation between

<sup>29</sup> **Integrated Ombudsman Scheme: The official framework for the RB-IOS and its mandate for consumer compensation: RBI: The Reserve Bank - Integrated Ombudsman Scheme, 2021**

<sup>30</sup> **ODR in India:** Research on the rise of Online Dispute Resolution and its role in the financial sector: <https://ijlsi.com/wp-content/uploads/Online-Dispute-Resolution-ODR-in-India.pdf>

regulators, financial institutions, technology developers, and policymakers. Regulatory oversight must remain responsive to emerging financial technologies, while institutions must prioritize transparency, ethical conduct, and suitability in their interactions with consumers. Ultimately, the stability of the financial system depends not only on economic efficiency but also on **public trust**. When consumers believe that financial institutions operate fairly and responsibly, the broader goals of financial inclusion and economic participation become far more attainable. The future of the financial sector therefore lies in maintaining a system where **technological progress strengthens, rather than weakens, the principles of fairness and accountability** that underpin the rule of law. By reinforcing these principles through thoughtful regulation and responsible institutional conduct, the financial ecosystem can continue to evolve while preserving the integrity and confidence upon which it ultimately depends.

### 7.1 Legislative Reform Proposals: Toward a “Financial Bill of Rights”

To move beyond purely reactive regulation, this paper proposes the introduction of a comprehensive “**Financial Bill of Rights**” for consumers in India. Such a framework would function as a foundational legislative charter for financial fairness, establishing clear and enforceable protections for borrowers, policyholders, and digital financial users. The objective would be to ensure that financial innovation develops alongside strong legal safeguards that prevent exploitative practices.

This proposed framework could be built upon four core principles designed to strengthen transparency, accountability, and consumer autonomy within the financial system.

#### 1. The Right to Algorithmic Explanation

With financial institutions increasingly relying on automated credit scoring and AI-driven risk models, consumers should have the right to receive a clear and understandable explanation when automated systems influence decisions affecting their access to credit or pricing tiers. In line with the transparency principles underlying the **Digital Personal Data Protection Act, 2023**, borrowers should be able to request a **human-readable explanation** of automated decisions affecting their financial opportunities<sup>31</sup>. Such a right would promote transparency and allow consumers to identify and challenge potentially unfair or inaccurate data processing.

#### 2. The Right to Suitability (Statutory Vendor Responsibility)

Financial institutions should bear a clear legal obligation to ensure that the products they offer are appropriate for the consumer’s financial circumstances. Building upon the principles reflected in recent regulatory directions on responsible conduct, this right would place the burden on financial service providers to demonstrate that a product was **suitable and responsibly recommended** based on the borrower’s financial capacity and needs. Where suitability cannot be demonstrated, the consumer should retain the right to challenge or rescind the transaction<sup>32</sup>.

#### 3. The Right to Digital Privacy and Data Protection

As digital lending platforms increasingly rely on personal data collected through mobile applications and online platforms, strong legal protections must ensure that borrowers’ personal data is not misused for coercive recovery practices or unrelated purposes. This right would reinforce existing constitutional

<sup>31</sup> **Right to Explanation:** Legal discourse on transparency in AI-driven financial decisions under the DPDP Act: <https://ijirl.com/wp-content/uploads/2025/09/ARTIFICIAL-INTELLIGENCE-AND-DATA-PRIVACY-CHALLENGES-A-LEGAL-PERSPECTIVE.pdf>

<sup>32</sup> **Statutory Suitability:** Analysis of the RBI's shift toward the "Seller Beware" standard: <https://www.whalesbook.com/news/English/bankingfinance/RBIs-Mis-selling-Rules-Shift-Burden-to-Seller-Beware/699d91a004a25a58c84f0c54#:~:text=The%20Reserve%20Bank%20of%20India's,deepens%20the%20accountability%20framework%20significantly.>

privacy protections recognized by the Supreme Court and strengthen safeguards against unauthorized data collection, misuse of personal contacts, or invasive digital monitoring practices<sup>33</sup>.

#### 4. The Right to Effective Consumer Restitution

Consumer protection frameworks should also ensure that remedies for financial misconduct are both timely and effective. Where mis-selling, improper bundling, or undisclosed charges are established through regulatory or dispute resolution processes, consumers should have access to **clear restitution mechanisms**, including refunds of improperly charged fees or interest. Strengthening restitution frameworks would help ensure that enforcement mechanisms directly restore affected consumers to their rightful financial position<sup>34</sup>.

Together, these four pillars would provide the foundation for a modern consumer protection framework suited to the realities of digital finance. A **Financial Bill of Rights** could help establish clear expectations for institutional conduct while empowering consumers to understand and exercise their financial rights.

#### 7.2 Closing Statement: Harmonizing Ethics with Profit

The purpose of this research is not to discourage financial innovation or the growth of the financial sector. On the contrary, the goal is to ensure that the expansion of financial services remains aligned with the needs and dignity of the individuals it ultimately serves.

The challenges discussed throughout this paper highlight how rapid technological change, complex financial products, and aggressive commercial incentives can sometimes create tensions within the financial ecosystem. When short-term profit incentives overshadow transparency and fairness, the resulting imbalance can weaken the trust that sustains financial markets.

A stable and inclusive financial system ultimately depends on **public confidence**. Trust is the underlying capital that enables households to engage with banks, insurers, and financial technology platforms. Without that trust, even the most advanced financial infrastructure struggles to achieve its broader economic purpose.

Recent regulatory developments in India represent an important step toward reinforcing this balance. By strengthening responsible conduct standards, enhancing transparency requirements, and improving dispute resolution mechanisms, regulators are laying the groundwork for a more accountable financial environment. Yet regulation alone cannot achieve this transformation. Financial institutions themselves must embed ethical considerations into their governance, product design, and technological development. A sustainable financial ecosystem is one in which **profitability and responsibility reinforce each other rather than compete**. Institutions that prioritize transparency, suitability, and consumer trust are ultimately more resilient and better positioned to contribute to long-term economic growth.

By aligning innovation with accountability and by ensuring that financial systems operate in service of broader societal well-being, India has the opportunity to shape a model of **inclusive and responsible finance** that can serve as an example for emerging economies around the world.

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<sup>33</sup> **Digital Privacy & Recovery:** The legal boundaries of debt collection and the protection of digital collateral: <https://indianexpress.com/article/explained/explained-what-is-the-instant-loan-apps-case-how-were-the-victims-lured-7118818/>

<sup>34</sup> **Restitution Mechanisms:** The 2026 RBI draft framework for limiting customer liability and mandatory compensation: <https://economictimes.indiatimes.com/wealth/save/rbi-proposes-rules-to-protect-bank-customers-from-online-fraud-suggests-compensation-for-small-value-scams/articleshow/129154468.cms?from=mdr>