REGULATIONS AND COMPLIANCE (MODULE- A)

LEGAL AND REGULATORY ASPECTS OF BANKING

JAIIB Paper-3
Banking: Banking is defined in section 5(b) of the Banking Regulation Act as the acceptance of deposits of money from the public for the purpose of lending or investment.

Deposits: Withdrawable by cheque: Under section 49A of the Banking Regulation Act, no organization other than a bank is authorized to accept deposits withdrawable by Cheque.

Acceptance of Deposits by Non-banking entities: The Reserve Bank of India (the Bank), having considered it necessary in the public interest and being satisfied that for the purpose of enabling the Bank to regulate the credit system to the advantage of the country, it is necessary to give the directions set out below, hereby, in exercise of the powers conferred by sections 45J, 45JA, 45K, 45L and 45MA of the Reserve Bank of India Act, 1934 (Act 2 of 1934) (the RBI Act) and of all the powers enabling it in this behalf, and in supersession of the earlier directions contained in Notification No.DFC.118/DG (SPT)-98 dated January 31, 1998 issues the following Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions, 2016 (the Directions) applicable to every non-banking financial company hereinafter specified.
Licence for Banking: In India, it is necessary to have a licence from the RBI under Section 22 of the Banking Regulation Act for commencing or carrying on the business of banking.

Permitted Business: Main business of banks is acceptance of deposits and lending, the banks have now spread their wings far and wide into many allied and even unrelated activities. The forms of business permissible under section 6(1) of the Banking Regulation Act, apart from banking business,

1. Borrowing, raising or taking up of money
2. Lending or advancing of money either against security or without security
3. Drawing, making, accepting, discounting, buying, selling, collecting and dealing in bills of exchange.
4. Granting and issuing of letter of credit
5. Buying and selling of foreign exchange and foreign bank notes
6. Negotiating of loans and advances
7. Providing of safe deposit
8. Undertake and execute trust ETC, ETC

Prohibited Business: Section 8 of the Banking Regulation Act prohibits a banking company from engaging directly or indirectly in trading activities and undertaking trading risk. Buying or selling or bartering of goods directly or indirectly is prohibited.

Constitution of Banks

Banks in India fall under one of the following categories:

- Body corporate constituted under a special statute;
- Company registered under Companies Act, 1956 / foreign company
- Cooperative Society registered under a central and state enactment on cooperative societies.

Public sector bank

A Public Sector bank is one in which, the Government of India holds a majority stake. These banks are constituted under special statue. The State Bank of India was constituted under The State Bank of India Act, 1955. The six subsidiaries of State Bank of India were constituted under the State Bank of India (Subsidiary Banks) Act, 1959. The
government further nationalized 14 commercial banks through Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, 1969 on 19th July 1969. It later nationalized six more commercial banks through Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 on 15th April 1980. The State Banks (Repeal and Amendment) Bill 2017 merges five associate banks of SBI and Bharatiya Mahila Bank with SBI.

**Banking Companies**

A banking company, as defined in section 5(c) of the Banking Regulation Act is a company which transacts the business of banking. Such company may be a company constituted under section 3 of the Companies Act, 1956 or incorporated under the Companies Act, 2013 or foreign company within the meaning of section 591 (u/s 379 of companies Act, 2013) of that Act. All the private sector banks are banking companies. These banks are governed by the Companies Act, 1956 or Companies Act 2013 in respect of their constitution and by the Banking regulation Act.

**Co-operative bank**

A Cooperative bank is essentially a cooperative Society. There are two types of Co-operative banks: Multi-state cooperative society and State Cooperative society. Multi-state cooperative societies are registered under the cooperative society's act of the Centre. State cooperative societies are registered under the state cooperative act. The Banking laws (Application to Co-operative Societies) Act, 1956 extended certain provisions of the Banking Regulation Act and Reserve Bank of India Act to the Co-operative banking sector.

**Reserve Bank of India Act 1934**

The Reserve Bank of India Act 1934 is an Act to constitute a Reserve Bank of India (RBI) and provide the central bank (RBI) with various powers to act as the central bank of India. RBI Act 1934.

There are total 61 Sections in the RBI Act 1934.

**Some important sections are listed below:**

- **Section 3:** Establishment and incorporation of Reserve Bank.
- **Section 4:** Capital of the Bank. The capital of the Bank shall be five crores of rupees.
- **Section 6:** Establishment of Offices, branches and agencies
- **Section 8:** The composition of central board of Reserve Bank of India
- **Section 17:** The business that RBI can carry out
・ **Section 18:** Provides for direct discount of bills of exchange and promissory notes
・ **Section 20:** Obligation of the Bank to transact Government business.
・ **Section 21:** Bank to have the right to transact Government business in India.
・ **Section 21A:** Bank to transact Government business of States on agreement.
・ **Section 22:** Right to issue bank notes.
・ **Section 24:** Denominations of notes. (1) Subject to the provisions of sub-section (2), bank notes shall be of the denominational values of two rupees, five rupees, ten rupees, twenty rupees, fifty rupees, one hundred rupees, five hundred rupees, one thousand rupees, five thousand rupees and ten thousand rupees or of such other denominational values, not exceeding ten thousand rupees.
・ **Section 27:** Re-issue of notes. The Bank shall not re-issue bank notes which are torn, defaced or excessively soiled.
・ **Section 26 (1):** Defines legal tender of notes
・ **Section 26(2):** Withdrawal of legal tender of notes
・ **Section 42:** Cash reserves of scheduled banks to be kept with the Bank.
・ **Section 45(U):** Defines repo, reverse repo, derivative, money market instruments and securities.

**Banking Regulation Act, 1949**

The Banking Regulation Act 1949 is a legislation in India that regulates all banking firms in India. Initially, the law was applicable only to banking companies. But, 1965 it was amended to make it applicable to cooperative banks and to introduce other changes.

*There are total 55 Sections in the Banking Regulation Act, 1949. Some important sections are listed below:*

・ **Section 18:** Cash reserve
・ **Section 17:** Reserve fund
・ **Section 8:** Prohibition on trading
・ **Section 9:** Disposal of Non Banking assets
・ **Section 6:** Business allowed for a banking company
• **Section 10BB**: Power of Reserve Bank to appoint [chairman of the Board of directors appointed on a whole-time basis or a managing director] of a banking company.

• **Section 11**: Requirement as to minimum paid-up capital and reserves

• **Section 12**: Regulation of paid-up capital, subscribed capital and authorised capital and voting rights of shareholders

• **Section 21**: Power of Reserve Bank to control advances by banking companies

• **Section 21A**: Rates of interest charged by banking companies

• **Section 22(1)**: Licensing of banking companies

• **Section 23**: Restrictions on opening of new, and transfer of existing, places of business

• **Section 29**: Accounts and balance-sheet

• **Section 30**: Auditing of Banking Company

• **Section 36AE**: Power of Central Government to acquire undertakings of banking companies in certain cases

• **Section 44A**: Procedure for amalgamation of banking companies.

1. Amalgamation of two banking companies is under the provisions of Section 44A of the Banking Regulation Act, 1949.

2. Amalgamation of a banking company with a non-banking company is governed by sections 391 to 394 of the Companies Act, 1956.

• **Section 47A**: Power of Reserve Bank to impose penalty

• **Section 49A**: Restriction on acceptance of deposits withdrawable by cheque.

**RBI as a Central Bank and Regulator of Banks**

The Reserve Bank was constituted under **Section 3 of the RBI Act, 1934** for taking over the management of currency from the central government and carrying on the business of banking in accordance with the provisions of the Act.

*The Major powers of the RBI in the different roles as regulator and supervisor can be summed up as under:*

- Power to issue banking licence
- Power of appointment and removal of banking boards/ Personnel
- Power to regulate the business of banks
- Power to give directions
- Power to inspect and supervise banks
- Power regarding audit of banks
- Power to collect, collate and furnish credit information
- Power to impose penalties

**Unit 2- Control Over Organisation of Banks**

**Licensing of Banking Companies**

**License Requirement from RBI:** The banking business in India, a company requires a licence from the RBI under Section 22 of the Banking Regulation Act, 1949.

**Discretion of Reserve Bank:** RBI to consider the defects or improvements revealed in an inspection held under Section 35 of the BR Act while disposing of an application for licence.

**Conditions to be Satisfied:** Section 11 BR Act specifies the minimum capital and reserve requirements of banking company, the Reserve Bank can stipulate a higher requirement of capital for licensing a banking company as under section 22. The Reserve Bank has to be satisfied that the company has an adequate capital and earning prospects.

**Foreign Bank:** In the case of companies, incorporated outside India applying for a licence, apart from the conditions specified in the case of domestic companies, three additional conditions have been stipulated for consideration by the Reserve Bank.

- Whether carrying on a banking business by the company in India will be in public interest
- Whether the government or the law of the country, in which the company is incorporated discriminates in any way against banking companies registered in India
- Whether the company complies with provisions of the BR Act, as applicable to foreign companies.

**Cancellation of Licence:** Sub-Section(4) of Section 22 of the Banking Regulation Act Authorises the RBI to cancel the licence granted to any company.
Branch Licensing

Under Section 23 of the Banking Regulation Act, ‘Place of business’ for this purpose includes any sub-office, pay office, sub-pay office or any place at which deposits are received, cheques cashed or moneys lent.

For granting permission under section 23, the RBI may require to be satisfied of the following:

- Financial condition and history of the bank;
- General character of its management;
- Adequacy of capital structure and earning prospects;
- Public interest.

Paid-Up Capital and Reserves

Section 11 of the Banking Regulation Act provides for certain minimum requirement as to paid-up capital and reserves of banking companies.

Foreign Banks: Under Sub-section (2) of section 11 of the BR Act, a foreign bank operating in India, has to deposit and keep deposited with the Reserve Bank an amount 15 lakhs and if it has place of business in Mumbai or Kolkata or Both, 20 Lakhs. The amount has to be kept in cash or unencumbered approved securities or in both.

Indian Banks: In case of banking Companies in India, the requirements of minimum paid-up capital and reserves under Section 11 (3) are as follow:

<table>
<thead>
<tr>
<th>Amount</th>
<th>Term Condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rs. 5 lakhs</td>
<td>If it has a place of business in more than 1 state</td>
</tr>
<tr>
<td>Rs. 10 lakhs</td>
<td>If it has a place of business in more than 1 state include Mumbai and Kolkata</td>
</tr>
<tr>
<td>Rs 1 lakh</td>
<td>If business is in only one state and does not including Mumbai and Kolkata + Rs.10000 for other places of business, in the same district in which the principal place of business is situated, + an additional Rs. 20000 for each place of business elsewhere; in total not exceeding Rs. 5lakhs</td>
</tr>
<tr>
<td>Rs. 50000</td>
<td>If the bank has only one place of business</td>
</tr>
</tbody>
</table>

Note: If place of business are one state only, but one or more of them is in Mumbai or Kolkata Rs 5lacs + 25000 for each place of business outside these cities and the
aggregate not exceeding Rs 10 lacs.

Paid-up Capital, Subscribed capital and Authorised Capital: In terms of Section 12(i)(ii) of the Banking Regulation Act, Banking Companies are permitted to issue equity share or equity share and preference share.

Shareholding in Banking Companies

Section 12(2) Banking Regulation Act 1949: Certain restrictions on voting rights of shareholder.

Section 12 B Banking Regulation Act 1949: No person (hereinafter referred to "as the applicant") shall, except with the previous approval of the Reserve Bank, on an application being made, acquire or agree to acquire, directly or indirectly, by himself or acting in concert with any other person, shares of a banking company or voting rights therein, which acquisition taken together with shares and voting rights.

Section 12(3) Banking Regulation Act 1949: on behalf of a minor or a lunatic on the ground that the registered holder holds the share on behalf of the minor or lunatic.

Section 13 Banking Regulation Act 1949: Under the Amending Act, Impose a ceiling on the commission, brokerage, discount or remuneration on the sale of share of banking companies.

Section 15 Banking Regulation Act 1949: No dividend is payable until all capitalized expenses are completely written off. Example: Preliminary expense, share-selling commission, brokerage etc.

Subsidiaries of Banking Companies

Section 19 Banking Regulation Act 1949: Restriction on nature of subsidiary companies.

Section 19 (2) Banking Regulation Act 1949: Apart from the restriction on subsidiaries, there is also a ceiling on shareholding in companies other than subsidiaries.

Board of Directors

Section 10A Banking Regulation Act: Stipulates certain qualifications for directors of banking companies. Board of directors to include persons with professional or other experience

Section 10A (2)(b) Banking Regulation Act: Have substantial interest in, or be connected with, whether as employee, manager or managing agent,—

1. Any company, not being a company registered under section 25 of the Companies Act, 1956 (1 of 1956), or
2. Any firm, which carries on any trade, commerce or industry and which, in either case, is not a small-scale industrial concern, or
3. Be proprietors of any trading, commercial or industrial concern, not being a small-scale industrial concern.

**Period of office:** The directors of a banking company shall not hold office for more than 8yrs continuously.

**Section 10B Banking Regulation Act:** Provide that every banking company should have a full-time or part-time chairman, appointed from among its directors.

**Section 36AB Banking Regulation Act:** The RBI has the power to appoint additional directors on the boards of banking companies.

**Section 10 Banking Regulation Act:** Prohibits employment of managing agents and imposes restrictions on employment.

**Controls over Management**

**Power to remove Management and other personnel:** The RBI is empowered under section 36AA of the Banking Regulation Act to remove any chairman, director, CEO or other officer or employee of a banking company.

**Appeal:** An appeal against the order of removal lies with the Central Government. Such an appeal has to be filed within 35 days from the date of communication of the order. The appellate decision of the central government, and subject there to the order of the RBI, shall be final and no liable to challenge in any Civil Court.

**Supersession of Board of Directors of Banking Company:** Section 36CA of BR act empowers RBI to supersede Board of Banking Company for a period of 6 Months which may be extended upto 12 months.

**Telegram Group:** Click Here

<table>
<thead>
<tr>
<th>Jaiib/DBF Peper</th>
<th>Mock Link</th>
</tr>
</thead>
</table>

Mail us at: contact@ambitiousbaba.com | BANK | SSC | RAILWAY | JAIIB | CAIIB | PARA13.2 | GIPS
**Unit 3- Regulation of Banking Business**

**Power to Issue Directions**

The Banking Regulation: The Act authorized the Reserve Bank to issue directions to banks under Sections 21 and 35A of the Act.

**Section 21 BR Act 1949:** Gives the power to regulate advances by banking companies. RBI allows to control loans and advances extended by banking companies.

**Section 35A BR Act 1949:** vests power in the RBI to give directions to banks and can take action:

To prevent the affairs of any banking company being conducted in a manner detrimental to the interests of the depositors or in a manner prejudicial to the interests of the banking company To ensure better governance and control
**Section 36 BR Act 1949:** RBI is empowered to caution or prohibit any banking company regarding any transaction or class of actions.

**Acceptance of Deposits**

**Regulation of Acceptance of Deposits:** The Banking Regulation Act does not contain any specific provisions for regulation of acceptance of deposits of banks. However, **Section 35A which authorizes the RBI** to give directions is wide enough to cover acceptance of deposit.

**Returns on Unclaimed Deposits:** Bank have to file a return every year on their unclaimed deposits under **Section 26 of the Banking Regulation Act.** The return has to be filed **within 30 days of the end of each calendar year** in the form and manner prescribed and should cover all **deposit not operated for 10 yrs.** In the case of fixed deposits the period of **10 years starts from the expiry of the period of the deposit.**

**Nomination**

**Section 45ZA BR Act:** Where a deposit is held by a banking company to the credit of one or more persons, the depositor or, as the case may be, all the depositors together, may nominate, in the prescribed manner, one person to whom in the event of the death of the sole depositor or the death of all the depositors. Unless the nomination is varied or cancelled, the nominee is entitled to all the rights of the depositor’s in the event of death of the depositor’s. In the case of minor nominees, there is also a provision to appoint a person to receive the deposit on behalf of the minor.

**Article of safe custody and safety lockers:** There are also provisions in the Banking Regulation Act for nomination in respect of articles kept in safe custody with bank and safety lockers. **Sections 45ZC and 45ZE provide that any person,** who leaves any article in safe custody and in safety lockers respectively with a banking company, may nomination one person as nominee to receive the article in the event of death of that person. The nomination has to be in the prescribed manner and on return of articles kept in safe custody or removal of contents of locker by nominees as provided; the bank gets a valid discharge. Rule 3 and 4 of banking companies (Nomination) rules, 1985 deal with the form and procedure applicable to articles in safe custody and safety lockers respectively in the case of banking companies and co-operative banks.

**Regulation Loans, Advances & Interest Rates**

**Regulation of Loans and Advances:** The RBI is empowered under **Section 21 of the Banking Regulation Act** to issue directions to control advances by banking companies.

The RBI issue directions from time to time regulating the lending operations of banking companies in exercise of these **powers vested under Section 21.** Apart from this, the
general powers to give directions under Section 35A are also available for regulation of loans and advance.

**Restriction on loans and advances:** Section 20 of the Banking Regulation Act imposes certain restrictions on loans and advances.

**Restrictions on power to remit debt:** For remitting any debt to its directions, a banking company requires prior permission of the RBI under Section 20A of the BR Act.

**Interest rates:** RBI is authorized to regulate interest rates under Section 21 (with Section 35A) of the BR Act.

### Regulation of Money Market Instruments

**Section 45-W of RBI Act 1934:** "Power to regulate transactions in derivatives, money market instruments, etc"

The Bank may, in public interest, or to regulate the financial system of the country to its advantage, determine the policy relating to interest rates or interest rate products and give directions in that behalf to all agencies or any of them, dealing in securities, money market instruments, foreign exchange, derivatives, or other instruments of like nature as the Bank may specify from time to time:

Provided that the directions issued under this sub-section shall not relate to the procedure for execution or settlement of the trades in respect of the transactions mentioned therein, on the Stock Exchanges recognised under section 4 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

The Bank may, for the purpose of enabling it to regulate agencies referred to in sub-section (1), call for any information, statement or other particulars from them, or cause an inspection of such agencies to be made.

### Reserve Funds

**Creation of Reserve Fund:** Every Banking Company incorporated in India has to create a reserve fund under Section 17(1) of the BR act out of the profits as shown in the profits and loss account prepared under Section 29 of the Act. Every year, a sum equivalent to not less than 20% of such profit has to be transferred to the reserve fund. Such transfer of profits to reserve fund has to be made before any dividend is declared.

**Appropriation from Reserve fund/ Share Premium Account:** Appropriation of any amount from the reserve fund or the share premium account has to be reported to the Reserve Bank within 21 days of such appropriation.

**Foreign Bank:** The provisions of Section 17(1) of the Banking Regulation Act for creating of reserve fund do not apply to foreign banks operating in India. In their case,
instead of creating a **reserve fund under section 17(1), section 11(2) of the Act** requires them to deposit and keep deposited with the **RBI an amount calculated at 20% of the profit for each year** in respect of all the business transacted through their branches in India.

**Maintenance of Cash Reserve**

Every Bank company which is a scheduled bank has a duty to maintain certain cash reserve with the **RBI under Section 42 of the RBI Act**. In the case of non-scheduled banks **Section 18 of the BR Act** provides for the maintenance of cash reserve.

**Scheduled Banks:** A scheduled Bank is a bank included in the second schedule of the RBI Act. Under **Section 42(6) of the Act**, the RBI may include any bank in the second schedule if it satisfies. It has a paid-up capital and reserves of an **aggregate value of not less than Rs 5 lacs.**

**Quantum of Cash Reserve:** The cash reserve required to be maintained by a scheduled bank with the **RBI Under Section 42(1) of the RBI Act** (as amended in 2006) is an average daily balance, being such percent of the total of the demand and time liabilities in India of that bank as shown in the return referred to in the sub-section(2).

**Interest:** Until the amendment to the **RBI Act in 2006**, the Reserve bank was authorized under the Act **(Section 42(1B))** to pay interest to a scheduled bank when it maintained reserve above the statutory minimum as required under the **RBI notification under erstwhile proviso to the sub-Section (1) or under the sub-Section (1A) of section 42.**

**Returns:** Every scheduled bank has to submit a return to the Reserve bank showing its demand and time liabilities and borrowing from banks in India, classifying them into demand and time liabilities and giving other details required under **Section 42(2) of the RBI Act.**

**Penalties:** Failure of file the return as required also attracts a penalty under section **45(4) of the act.** Where Reserve Bank is satisfied that a bank has sufficient reason for committing the default, either in maintaining reserves or in filing return, the penalty may be waived.

**Cash Reserves of Non-scheduled Bank:** In the case of banking companies, which are not scheduled banks under **Section 18 of the BR Act**, the cash reserve need not be maintained with the RBI.

**Banking Ombudsman**

- Banking ombudsman, a quasi-judicial authority is formed with an intent to resolve the complaints of the customers of the Bank.
• **Section 35A of the Banking Regulation Act, 1949** deals with **Banking Ombudsman Scheme**. It came into effect in **1995** and presently the **Banking Ombudsman Scheme 2006** is in operation.

• The scheme covers not just scheduled Commercial Banks but also Regional Rural Banks and Scheduled Primary Co-operative Banks. Recently, RBI also extended the concept of Banking Ombudsman to NBFC’s as well.

**Areas of customer redressal available with the Ombudsman mechanism**

• Non-payment or unreasonable delay in the payment /collection/ issue of cheques, drafts, bills etc.;
• Non-acceptance, without sufficient cause, of small denomination notes and coins tendered for any purpose, and for charging of commission in respect thereof;
• Non-payment or delay in payment of inward remittances;
• Non-adherence to prescribed working hours;
• Delay/failure to provide any banking facility (other than loans and advances) which has been promised in writing by the Bank
• Delay/ non-credit of proceeds to the respective parties’ accounts, non-payment of deposit or non-observance of the RBI directives, with respect to the rate of interest on bank deposits
• Complaints from NRIs having accounts in India in relation to their remittances from abroad, deposits and other bank related matters;
• Refusal to open deposit accounts without any valid reason for this refusal;
• Levying charges without adequate prior notice to the customer;
• Non-adherence to RBI instructions on ATM / Debit Card /Prepaid Card / Credit Card operations in India by the bank or its subsidiaries
• Non-adherence to RBI instruction with regard to Mobile Banking / Electronic Banking service in India.
• Non-disbursement or delay in disbursement of pension (to the extent the grievance can be attributed to the action on the part of the bank concerned, but not with regard to its employees);
• Refusal to accept or delay in accepting payment towards taxes, as asked by Reserve Bank/Government;
• Failure /Delay with regard to the issue, service or redemption of Government securities;
• Forced closure of deposit accounts without any notice or without giving sufficient reason;
• Refusal to close or delay in closing accounts;
• Not following the fair practices code as adopted by the bank;
• Non-observance of Reserve Bank guidelines on engagement of recovery agents by banks;
• Non-adherence to RBI guidelines on allied-banking activities like sale of insurance or mutual fund or other investment products by banks;
• Any other matter relating to the violation of RBI directives

Telegram Group:- [Click Here]

| Jaiib/DBF Peper | Mock Link |
All Banks whose shares are listed with stock Exchange are required to publish their unaudited quarterly results as per proforma prescribe by the SEBI. Every banking company has to prepare its balance sheet and profit and loss account as stipulated in Section 29 of the Banking Regulation Act.

The Balance sheet and Profit and loss account of a banking company incorporated in India has to be signed by the manager or principal officer of the company and at least 3 directors if there are more than 3 directors and by all directors if there are not more than 3 directors. Case of foreign banks, the manger or the agent of its principal office in India can sign.
In case of banking companies, the profit and loss account, which has to be placed before the annual general meeting should relate to the period ending with the last working day of the year immediately preceding the year in which the annual general meeting is held. The Provisions of Section 210 of the Company Act, in this behalf, have been specifically made inapplicable to banking companies by Section 29(3A) of the Banking Regulation Act.

Publication of Account and Balance sheet: The account and balance sheet prepared under Section 29 of the Banking Regulation Act along with the auditor's report have to be published, as provided in Section 31 there of read with rule 15 of the Banking Regulation (Companies) Rules, 1949.

Furnishing of Accounts and Balance sheet to Register: Section 220 of the Companies Act provides for submission by companies of copies of accounts and balance sheet along with the auditor’s report to the Registrar of Companies. However, In the case of banking companies, Section 32 of the Banking Regulation Act provides for furnishing to the registrar Three copies of the account, balance sheet and auditor’s report submitted to the Reserve Bank under Section 31 of the Act, Which would be dealt with in all respect.

Audit and Auditors

The balance sheet and Profit and loss account of a banking company have to be audited, as stipulated under Section 30 of the Banking Regulation Act.

Power and Functions of Auditors: The Powers, functions and duties of the auditors and the liabilities and penalties to which they are subjected to under Section 227 of the Companies Act are applicable to auditors of banking companies.

Special Audit: Reserve Bank is empowered under Section 30(1B) of the Banking Regulation Act to order a special audit of the accounts of any banking company.

Submission of Returns

Return of Liquid Asset: Every Banking company has to submit has to submit a return of its liquid assets under Section 24(3) of the Banking Regulation Act. The Return has to be submitted 20 days form the end of the month to which it relates. The return has to be in the form prescribed under rule 13A of the Banking Regulation (Companies) Rules, 1949.

Monthly Return: Last Friday Previous Month under Section 27 of the BR Act.

Return of Assets in India: Section 25(1) of the BR Act.

Return of Unclaimed Deposit: Under Section 26 of the BR Act, a banking company has to file within 30 days of the close of each calendar year a return on unclaimed deposit (not operated for 10yrs).
**Return of Cash Reserve of Non-Scheduled Banks:** Every Banking company, not being a scheduled bank, has to furnish a return to the Reserve Bank under Section 18(1) of the BR Act relating to cash reserve.

**Return by Scheduled Banks:** Under Section 42 of the RBI Act, scheduled banks have to submit returns to the Reserve bank of their demand and time liabilities as specified in the sub-section (2) thereof.

**Inspection and Scrutiny**

**Inspection:** The Reserve Bank is empowered under Section 35 of the BR Act to conduct an inspection of any banking company.

**Power of the Government:** A copy of the report of inspection has to be sent the central govt. in all cases where inspections have been conducted as directed as by the Central government.

1. Prohibit the banking company from receiving fresh deposits.
2. Direct the Reserve Bank to apply for winding up of the banking under Section 38 of the BR Act.

**Scrutiny:** Apart from making regular inspections, Reserve Bank is also empowered to conduct a scrutiny of the affairs and the books and accounts of any banking company under the sub-section (1A) of Section 35 of the Banking Regulation Act.

**Amalgamation of Banks**

**Voluntary Amalgamation:** A banking company may be amalgamated with another banking company under Section 44A of the Banking Regulation Act.

**Amalgamation by Government:** The Central Government is empowered to order amalgamation of two banking companies under Section 396 of the Companies Act. However, such power has to be exercised only after consultation with the Reserve Bank.

**Moratorium and Amalgamation:** The Reserve Bank is authorized under Section 45 of the Banking Regulation Act to apply to the Central Government for an order of moratorium in respect of any banking company where it appears to it that there is good reason to do so.

**Winding UP of Banks**

**Suspension of Banking and Winding Up:** A Banking company which is temporarily unable to meet its obligation may apply to the High Court under Section 37 of the Banking Regulation Act for staying the Commencement or continuance of any proceedings against it.
**Winding Up by High Court:** The High court shall order the winding up of a banking company in the circumstances mentioned in Section 38 of the Banking Regulation Act.

**Official Liquidator:** Section 38A of the BR act provides for a liquidator to be appointed by the Central Government, attached to respective High court, for conducting the winding up proceedings relating to banking companies.

**Reserve Bank as Liquidator:** Although there is a provision for an official liquidator as above, of the Reserve Bank applies to the Court under Section 39 of the Act, the Reserve Bank, State bank or any other Bank notified by the Central Government in this behalf or any individual stated in the application may be appointed as the official liquidator.

**Preferential Payment:** In the winding up proceedings, the liquidator of a banking company has to make certain preferential payments under Section 43A of the Banking Regulation Act.

**Voluntary Winding Up:** Apart from the provision for compulsory winding up as above, Section 44 provides for voluntary winding up banking Companies.

**Penalties for Offences**

**Penalties under the RBI Act:** Chapter V of the RBI Act deals with penalty for violation of the Act. Banking Companies have to make applications and furnish returns, statements, etc. Banking Companies have to make application and furnish returns, statements etc., under different provision of the Act, regulations, orders, directions etc. While doing so, the making of any statement which is false in any particular material, knowing it to be false or wilfully omitting to make any material statement, is punishable with imprisonment up to a period of three years and also a fine.

**Penalties under the BR Act:** The provisions of the Banking Regulation Act, relating to penalties, are provided in Section 46 thereof. According, making willfully any false in any return balance sheet or other document or information given under the Act is punishable. Similarly, willful omission to make any material statement is also punishable. In both case, punishment is up to 3 years imprisonment and fine.

---

**Unit 5- Public Sector Banks and Co-operative Banks**

**State Bank and Its Subsidiaries**
Establishment of State Bank: State Bank of India was established under Section 3 of the State Bank of India Act, 1955 for taking over the undertaking of the Imperial Bank and to carry in the Business of banking and other business in accordance with that Act.

Business of State Bank: The State Bank may carry on the business on banking as defined in Section 5(b) of the Banking Regulation Act and other business specified in Section 6(1) of that Act.

Account and Audit: The State Bank has to close its books and balance accounts each year as on 31 March or such other date as may be specified by Central Govt. and RBI its balance sheet and profit and loss account together with auditors report and a report by the Central Board on the working and activities of the Bank. The Audit may be conducted by any person duly qualified to be auditors of companies under section 266 of the Companies Act, 1956 (Corresponding Section 141 of the Companies Act, 2013).

Subsidiary Bank: The Share of the Subsidiary banks are freely transferable as provided in Section 18 of the Act. State bank is empowered under Section 47 to inspect the subsidiary bank. SBH State Bank of Hyderabad Act, 1956, SBS Saurashtra State banks(amalgamation) Ordinance, 1950

All other banks State Bank Of India (Subsidiary Banks) Act, 1959

Rule and Regulation: The Central Government empowered to make rules under Section 62 of the Act for giving effect to the purposes of the Act. The state bank is also empowered to make regulations under Section 63 with the approval of the RBI for giving effect to the purposes of the Act.

Regional Rural Banks

The RRBs are public sector Institutions, regionally based, rural oriented and engaged in commercial banking. They were first set up in 1975 under the Regional Rural banks Ordinance, 1975. The ordinance was later replaced by the RRB act, 1976.

Establishment of RRBs: Section 3 of the Act Authorises the Central Government to establish regional rural banks by notification in the official gazette at the request of a sponsor bank. Central Government – 50%, State Government – 15% and Sponsor Banks – 35%.

Business of Regional Rural Banks: Regional rural Banks may transact the business of banking as defined in Section 5(b) of the Banking Regulation Act and any other business permissible for a bank to undertake under Section 6(1) of that Act.

Account and Audit: The Audit may be conducted by any person duly qualified to be auditors of companies under section 266 of the Companies Act, 1956 (Corresponding Section 141 of the Companies Act, 2013). The Auditors have to be appointment with the approval of the Central Government.
Nationalised Banks


**Directors:** The Directors of Nationalised banks are nominated by Central Government or elected from the shareholders. The Nomination of Directors is as under:

- Not more than 4 whole time director (as against 2 earlier)
- Not more than 6 directors to be nominated by Central Govt.
- 1 official director, 1 representing workmen employee of the bank, 1 director representing officers of the bank, 1 director possessing necessary expertise and experience in matter relating to regulation or supervision of commercial bank.

**Additional Director:** RBI may appoint one or more additional directors on the board of a Nationalised bank.

**Account and Audit:** The Audit may be conducted by any person duly qualified to be auditors of companies **under section 266 of the Companies Act, 1956 (Corresponding Section 141 of the Companies Act, 2013).** The Auditors have to be appointment with the approval of the Central Government.

**Scheme of Management:** In exercise of the **powers under section 9 of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 and Section 9 of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1980,** the Central Govt. has framed 2 schemes,

- Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970
- Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980

**Paid-up Capital** – Originally entire Paidup Capital was held by Central govt., some of these banks have recently made public issue of shares, but the Central Govt. still holds majority of shares in all these banks. The Shares other than those held by the Central Govt. are freely transferrable. SBI Act 4 Divide capital into shares of Rs.10 each instead of Rs.100 Restriction on voting rights (being 200 shares only) was modified upto 10 % of the Issued Capital and restriction on dividend deleted BC(A&T) 3 Authorised Capital of Rs.1,500 crore divided into shares of Rs.10 each.

**The Banking Companies (Acquisition and Transfer of Undertakings):** All public sector banks are governed by their respective, statutes and the rules, regulations or schemes made under these statutes. In addition to this, these banks are also governed by certain provisions of the Banking Regulation Act as stipulated in **Section 51 of that Act.** The provisions of the Reserve Bank of India Act are also applicable to them.
Co-Operative Banks

Applicability of BR Act: The co-operative banks operating in more than one state, are registered under the multi-state Co-operative Societies Act. The Banking Regulation Act is applicable to co-operative banks as provided in Section 56 of that Act with certain modifications. The Act was made applicable to co-operative societies by the Banking laws (Application to Co-operative Societies) Act, 1965. For this purpose, a co-operative bank means a state co-operative bank, Central co-operative bank and a primary co-operative bank.

Paid-up Capital and Reserve: The Minimum paid-up capital and reserve required to commerce or carry on banking business by a co-operative bank is not less than 1 lac under section 11 (as applicable to co-operative bank).

Restriction on loan and Advance: Section 20 of BR Act (Application to Co-operative Societies) lays down certain restrictions on loan and advance by Co-operative bank.

- Loans and advances against its own shares.
- Unsecured loans or advances to any of its directors
- Directors interest
- Unsecured loans and advances in which the Chairman managing agent etc.

Licensing of Co-operative bank: Every Co-operative bank society a licence from the RBI under Section 22 of the BR Act (Application to Co-operative Societies).

Liquid Assets: Co-operative banks have to maintain liquid assets as provided in Section 24(1) of the Banking Regulation Act.

Inspection: The provision of Section 35 relating to inspection are applicable to co-operative banks with minor modifications.
<table>
<thead>
<tr>
<th>JAIIB/DBF Paper</th>
<th>Mock Link</th>
</tr>
</thead>
<tbody>
<tr>
<td>JAIIB/DBF Paper-I (Principle and Practices of Banking) Online Mock Tests</td>
<td>Click Here (900+ Questions) 299/- Only</td>
</tr>
<tr>
<td>JAIIB/DBF Paper-II (Accounting &amp; Financial for Bankers) Online Mock Tests</td>
<td>Click Here (850+ Questions) 299/- only</td>
</tr>
<tr>
<td>JAIIB/DBF Paper-3 (Legal and Regulatory Aspects of Banking) Online Mock Tests</td>
<td>Click Here (850+ Questions) 299/- only</td>
</tr>
<tr>
<td>Combo</td>
<td>Click Here (2600+ Questions) 699/- only</td>
</tr>
</tbody>
</table>
JAIIB/DBF Online Mock Test Series

JAIIB/DBF Paper 1 (Principles and Practices of banking) Only 299/-
- 11 Total Tests
- 5 Mocks + 5 Module wise Mock + 1 Previous Year Paper
- 120 Questions each Mock / Module wise each mock 50 Questions
- 900+ Questions
- Detailed Explanation
- Latest Pattern Questions
- Access on web and App 24/7
- English Language Only

JAIIB/DBF Paper- II (Accounting & Financial for Bankers) Online Mock Tests Only 299/-
- 10 Total Mock Tests
- 5 Mocks + 4 Mock Module wise + 1 Previous Year Paper
- 120 Questions each Mock + 50 Questions Each Module
- 850+ Questions
- Detailed Explanation
- Latest Pattern Questions Access on web and App 24/7
- English Language Only

JAIIB/DBF Paper-3 (Legal and Regulatory Aspects of Banking) Online Mock Tests Only 299/-
- 10 Total Mock Tests
- 5 Mocks + 4 Mock Module wise + 1 Previous Year Paper
- 120 Questions each Mock + 50 Questions Each Module
- 850+ Questions
- Detailed Explanation
- English Language Only 24/7 Access on Web & APP

JAIIB/DBF COMBO (Paper-I + Paper-II + Paper-3) Online Mock Tests Only 699/-
- 31 Total Mock Tests
- 16 Mocks (5 Mocks Each) +
- 13 Module-wise (5+4+4) + 3 Previous Year (Paper 1,2,3 Each)
- 120 Questions each Mock + 50 Questions Each Module Wise
- 2600+ Questions
- Detailed Explanation
- Latest Pattern Questions Access on web and App 24/7
- English Language Only