

## **PUBLIC SECTOR BANKS AND COOPERATIVE BANKS & PAYING BANKS**

State Bank of India, Nationalised Banks, and Regional Rural Banks are established by special statutes. These statutes and the rules, regulations, and/or schemes framed thereunder provide the powers, functions, and management of these banks.

- ***In the case of co-operative banks***, these banks are created and governed by the laws relating to co-operative societies, if they operate only in one state, the State Act and if they operate in different states, the Central Act applies.
- The ***Banking Regulation Act*** is applicable to cooperative banks in a modified manner as provided in Section 56 of the Act.

### **Shareholding**

- The majority of shares are held by the GOI.
- Further, ***no shareholder other than the GOI can exercise voting right above 10%***, unless otherwise specified by the Central Government in consultation with the Reserve Bank.

### **STATE BANK OF INDIA**

- **Establishment:** Established under Section 3 of the State Bank of India Act, 1955. It is a body corporate, with perpetual succession and common seal and shall sue and be sued in its name.
- **Management:** State Bank has its central office in Mumbai and local head offices at centre's as decided by its Central Board in consultation with the Central Government.

- The ***board is empowered to make regulations*** for carrying out the purposes of the Act in consultation with the Reserve Bank and with the previous sanction of the Central Government.

### **Composition of the Board**

The Board shall consist of Chairman, not more than 2 Managing Directors appointed by the Central Government, and other directors.

### **Business of State Bank**

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

### **Accounts and Audit**

Within three months of the closing date, it has to furnish to the Central Government and the Reserve Bank 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.

### **Subsidiary Banks**

- The subsidiary banks of the State Bank of India were established by different special statutes. In 2017, State Bank of India merged with itself five of its associate banks -- ***State Bank of Bikaner*** and Jaipur, State Bank of Mysore, State Bank of Travancore, State Bank of Hyderabad, and State Bank of Patiala — along with ***Bharatiya Mahila Bank***

### **REGIONAL RURAL BANKS**

- The Regional Rural Banks (RRBS) are ***public sector institutions***, regionally based, rural oriented, and engaged in commercial banking.



- RRBs have been established under provisions of **RRB act 1976** under central govt.

### **Shareholding**

- sponsor Bank holds 35% of the issued capital of the RRB
- the Central Government holds 50%
- the State Government holds the remaining 15% of the issued capital.

### **Management of the Affairs of an RRB**

- The management of RRB vests in the board of directors.
- The **board has to function on business principles** with due regard to the public interest.
- The **board is empowered to make regulations** for giving effect to the provisions of the Act in consultation with the sponsor bank and with previous approval of the Central Government.

### **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.
- **The Central Government is empowered to give directions to RRBs** on matters of policy involving public interest.

### **Accounts and Audit**

- Every RRB has to close and balance its accounts as on 31<sup>st</sup> March or such other date as the Central Government may specify.

- The auditors have to be appointed with the approval of the Central Government. A person qualified to act as an auditor of companies under Section 226 of the Companies Act, 1956 (Corresponding Section 141 of the Companies Act, 2013) is qualified to be an auditor of a regional rural bank.

### **NATIONALISED BANKS**

The Bank Nationalization Acts [Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980] transferred the undertakings of then-existing private banks to the corresponding new banks established under these Acts. These corresponding new banks are popularly known as Nationalized banks.

#### **Shareholding**

- Central Government still holds the majority of shares in all these banks.
- Further, **no preference shareholder shall be entitled to exercise voting rights** in respect of the preference shares held by him in excess of 10% of the total voting rights of all the shareholders holding preference share capital only.

### **MANAGEMENT**

- The general superintendence, direction, and management of the affairs of a Nationalized bank vests in the board of directors.
- The **Central Government is empowered to issue directions** to the bank in the discharge of its functions on matters of policy involving public interest after consultation with the Governor of the Reserve Bank

### **DIRECTORS**

- The directors of Nationalized banks are nominated by the Central Government or elected from the shareholders. The nomination of directors is as under:
- max 4 whole-time directors
- 1 director is an ***official of the Central Government to be nominated*** by the Central Government
- 1 director, possessing necessary expertise and experience in matters relating to regulation or supervision of commercial banks, to be nominated by the Central Government on the recommendation of the Reserve Bank
- a ***director representing workmen employees*** of the bank
- a ***director representing officers*** of the bank
- ***one chartered accountant*** with not less than 15 years' experience nominated in consultation with Reserve Bank
- ***Not more than 6 directors to be nominated by Central Government.***
- Shareholders can elect up to a maximum of 3 directors to the board.

### **ADDITIONAL DIRECTORS**

- The Reserve Bank may appoint one or more additional directors on the board of a Nationalized bank if it is of the opinion that in the interest of banking policy or in the public interest or in the interests of the bank or its depositors, it is necessary to do so.

### **ACCOUNTS AND AUDIT**

- Every Nationalized bank has to close its account as on 31<sup>st</sup> March or such other date specified by the Central Government by notification in the official gazette.

- The auditor shall be a person duly qualified to be an auditor of a company under Section 226 of the Companies Act, 1956 (Corresponding Section 141 of the Companies Act, 2013).
- The bank has to furnish copies of the balance sheet, profit and loss account and auditor's report along with the report of the board of directors on the working and activities of the bank to the Central Government and the Reserve Bank within 3 months.

### **CO-OPERATIVE BANKS**

- Co-operative banks are registered either under the state laws governing co-operatives or under the multi-state Co-operative Societies Act.
- ***If a co-operative bank operates only in one state***, the state law applies and in the case of ***co-operative banks operating in more than one state***, the Central Act applies.
- While the ***state law/ Central law governs the constitution*** and related matters, the **business of banking is regulated by the Banking Regulation Act as applicable to cooperative societies.**
- A primary co-operative bank is a co-operative society other than a primary agricultural credit society, which satisfies the following criteria;
- The ***primary object or principal business*** is the transaction of the banking business.
- **SLR** is to be maintained u/s 24 of BR act.

### **CASH RESERVE**

- Co-operative banks other than scheduled Co-operative Banks and scheduled state co-operative banks have to maintain in India by



way of cash reserve with itself or by way of balance in current account with the Reserve Bank as per section 18 of BR Act.

### **LICENSING OF CO-OPERATIVE BANKS**

Every co-operative society requires a license from the Reserve Bank under Section 22 of the Banking Regulation Act to carry on banking business in India.

### **ACCOUNTS AND AUDIT**

- Every co-operative bank has to prepare a balance sheet and profit and loss account of its business as on the last working day of the year.
- 3 copies of such balance sheet and accounts, along with statutory auditor's report must be submitted to the Reserve Bank within 6 months. A state co-operative bank and a central co-operative bank have to submit such a return to NABARD also.

### **REGISTRATION WITH DICGC**

- The Deposit Insurance and Credit Guarantee Corporation Act, 1961, which provides for insuring deposits of banks, are applicable to co-operative banks also.

**Q1: The State Bank of India is a \_\_\_\_\_ constituted under the State Bank of India Act.**

**ANS: Body corporate**

**Q2. The Central Government is not authorized to give any directions to the State Bank in matters of policy involving public interest. (true/false)**

**ANS: False**

**Q3. Co-operative banks have to prepare their balance sheet and profit and loss account in the forms set out in the Third Schedule of \_\_\_\_\_ act.**

**ANS: Banking Regulation Act**

**Q4. A scheduled cooperative bank has to maintain cash reserve (CRR) \_\_\_\_\_ ?**

**ANS: As Per Section 42 Of Reserve Bank Of India Act**

**Q5. The share capital of RRBs is held by Sponsor Banks \_\_\_\_\_ ?**

**ANS: 35%**

**Q6. If a cooperative bank wants insurance of its deposit it has to get itself registered with \_\_\_\_\_ ?**

**ANS: DICGC**



### **Case Laws on Responsibility of Paying Bank Cheque**

- Section 6 of NI Act. A Cheque is a bill of exchange, drawn on a specified bank and not expressed to be payable otherwise than on demand.
- The Act covers an Electronic Cheque is a cheque which contains the exact mirror image of a paper cheque, with the use of digital signatures.
- The ***relationship between a banker and customer is a debtor-creditor relationship***, the banker is bound to pay the cheques drawn by his customer.

### **Amount of a Cheque**

- Where amount in figures and words differ, the one in words will prevail (Section 18) and be paid
- if amount in words only written it will be inchoate instrument  
Section 20

### **Bearer Or Order Cheque**

- if nothing mentioned on cheque being order or bearer it will be considered payable to order cheque
- conversion of bearer to order is allowed with full signatures
- if both words order and bearer are mentioned and none is deleted it will be considered payable to bearer

### **Dates in Cheques**

- **Undated Cheques:** will be returned by the bank.
- **Cheques bearing date on holiday:** can be paid



- **Cheque bearing impossible date:** like if 29<sup>th</sup> feb 2019 the cheque will be paid on 28<sup>th</sup> feb
- **Stale cheque:** if the validity of the cheque is expired on the date of presentment of the cheque it is called stale cheque.
- **Post Dated Cheques:** which bear a date later to the date which it is drawn and will become effective on date mentioned
  - ***These are valid***
  - ***In the form of usance bill of exchange***
  - ***Drawer can stop payment before the date of instrument***

The ***Negotiable Instruments Act, 1881*** lays down the law relating to payment of a customer's cheque by a banker and the protection available to a banker.

***Sections 10, 85, 85A, 89 and 128*** of the Negotiable Instruments Act, 1881, grant protection to a paying banker.

**Section 31 (statutory obligation to honour customer's cheque):** it is statutory obligation on the bank to honour the cheque subject to some conditions.

**Sufficient Funds:** The banker should have sufficient funds of the drawer, i.e., there should be sufficient credit balance in the customer's account.

**Compensate The Drawer:** In case the banker refuses payment wrongfully, then he is liable only to the drawer of the cheque including any loss or damage and not to any endorsee or holder.

### **PROTECTION TO PAYING BANKER**

One of the main factors for protection-under the Negotiable Instruments Act, is that the payment is in due course (**SECTION 10** of NI Act).

**PAYMENT IN DUE COURSE:** 'Payment in due course' means payment to be made

- in **accordance** with the apparent tenor of the instrument:
- in **good faith**
- **without negligence**
- **to the person in possession** of the instrument; and
- while making payment **the banker should not have reasons** to 'believe' that the person in possession of the instrument is not entitled to receive payment of the amount mentioned in the instrument.

**SECTION 85 of the Negotiable Instruments Act, 1881** grants protection to a banker on his making payment of a cheque.

- Where a cheque payable to order purports to be endorsed by or on behalf of the payee, the drawee is discharged by payment

**SECTION 89 of the Negotiable Instruments Act** (Payment of instrument on which alteration is not apparent)

### **LIABILITY OF PAYING BANKER WHEN CUSTOMER'S SIGNATURE ON THE CHEQUE IS FORGED**

#### **SECTION 128**

For a crossed cheque if payment is in due course, the paying bank gets protection.



***When the customer's signature on the cheque is forged*** there is no mandate to the bank to pay, as such a banker is not entitled to debit the customer's account on such forged cheque.

### **PROTECTION FOR PAYING BANKER IN CASE OF CHEQUE**

**Regularity of Endorsement Sec 85(1) 85 A in case of Bank Draft:** Paying banker's liability is to ensure the regularity of endorsement and is not concerned with genuineness of endorsement. *The genuineness of endorsement is the liability of collecting banker.* Therefore, protection is available to the paying banker in case of forged endorsement

### **When Bank Should Not Pay**

**Death of the drawer** - The death of a drawer in case of individual's a/c (such as individual proprietorship joint accounts, HUF partnership firm) terminates the contractual relationship

**Company in liquidation** - The balance lying with the bank vests with the **official liquidator**

**Insane customers** - The Insanity terminates the contractual capacity

**Insolvent drawers:** Where a customer is adjudged insolvent the balance in the account is vested with official receiver/ assignee. Hence bank should stop the operations in the account

**Countermanding:** On receipt of valid stop payment instructions from the drawer

**Q1. The law relating to the payment of a cheques and protection to a banker is contained in the \_\_\_\_\_ act?**

**ANS: Negotiable Instruments Act**

**Q2. The bank is under obligation to make payment of cheques issued by the customer under \_\_\_\_\_ section of NI Act?**

**ANS: Section 31 of NI Act**

**Q3. Section 131 of NI Act protection is available to the paying bank. (true/false)**

**ANS: False**

**Q4. Section 10 of NI Act deals with \_\_\_\_\_ ?**

**ANS: Payment In Due Course**

**Q5. Protection is available to bank u/s \_\_\_\_ of NI Act, for making payment of a cheque, which is materially altered, if the alteration is not apparent?**

**ANS: Section 89**



**LEARNING  
SESSIONS**

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