

- **COURSE - 1.2: BANKING LAW**

- ***Module 1: Structure and Functions of Commercial Banks and Financial Institutions***

In this part the following topics will be discussed:

- 1) Evolution of Banking and its history in India.
- 2) The role of Banking Institutions in the socio-economic development of the country - Advances to priority sectors and Credit Guarantee Schemes.
- 3) The structure of Banking Institutions - The different types of Banks viz. Central Bank, Commercial Banks and Merchant Banks, Co-operative Banks, Specialised Banks. Regional Rural Banks (RRBs), Financial Institutions and their respective functions - An Overview.

4) The National Bank of Agriculture and Rural Development

- ***Module 2: Reserve Bank of India: Structure and Functions***

a) Central Banking

Here a critical study of the role and function of the Reserve Bank of India and its legal framework is attempted. The study includes the following:

- 1) Organisational structure of the Reserve Bank of India
- 2) Major functions of the Reserve Bank - Bank of Issue - Banker to the Government - Banker's Bank - Lender of the last resort - Bank rate - Monetary policy formulation and control CRR - SLR - Custodian of Foreign Exchange and Foreign Exchange Control - Promotional Functions.
- b) NABARD
- c) National Housing Bank (NHB)

- ***Module 3: Law of Banking Regulations***

Here a study of the Banking Regulation Act, 1949 is attempted. It includes the following:

- 1) Social control of banking institutions and the mechanism thereto.
- 2) Licensing of banking activities.
- 3) Minimum paid up capital, reserves, liquid assets, requirements etc.
- 4) Restrictions on loans and advances.

- 5) Regulation and control over the managerial organs and other agencies of commercial banks.
- 6) Control over amalgamation and schemes of reconstruction.
- 7) Control over accounts and audit.
- 8) Other powers of RBI and Central Government.
- 9) Winding up of Banking Companies.

Brief Idea of differences regarding SBI and Associates, Nationalised Banks, RRBs.

Need to provide for regulatory norms for NBFCs.

- ***Module 4: Negotiable Instruments: Law and Procedure-I***

Legal aspects of negotiable instruments in general and the special features of promissory notes, bills of exchange, hundis, cheques, bank drafts, traveller's cheques, and the rights and duties of various parties to these instruments, law and procedure of presentment, honour and dishonour of negotiable instruments, material alteration etc., noting and protesting are examined in this module.

- ***Module 5: Negotiable Instruments: Law and Procedure-II***

Crossing of Cheques, Criminal Liability on dishonour of a Cheque, law relating to foreign bill etc., noting and protesting.

Law relating to payment of customer's cheques, rights and duties of paying banker and a collecting banker.

Paying Banker: Honouring of customer's cheques - Overdraft agreements - Consequences of wrongful dishonour - When dishonour permissible - Stale cheques - Statutory protection of the banker - Payment in due course - Material alteration - Forgery of customers' cheque - Negligence of parties and legal consequences.

Collecting Banker: Legal position - Whether agent or holder in due course - Precautions to be taken - Collection of bills, cheques for customer and for third parties - Scope of statutory protection - Effect of negligence of parties.

- ***Module 6: Banker-Customer Relations***

In this module the legal relationship between the banker and customer, the multifarious transactions between them and the rights and duties of the parties springing out of such relationship are examined. The study includes:

- 1) Nature of banking business.
- 2) Legal nature of banker-customer relationship and their mutual rights and duties.
- 3) Special categories of customers, such as corporations, partnership firms, Hindu joint families, Unincorporated bodies, trusts, joint account holders, minors, nominee accounts, liquidator, mercantile agents, non-resident Indians, foreigners, etc. and the legal incidence of each.
- 4) different types of accounts such as current accounts, savings bank account and fixed deposits.
- 5) Other transactions between banker and customer such as safe deposit vaults, financial advice, letters of introduction and other services rendered by banks.

6) Special features of the relationship between banker and customer - Their mutual rights and duties
- Lien - Power to combine different accounts - Secrecy of account.

7) Pass books and entries therein.

- ***Module 7: Loans and Advances***

This module deals with the law, practice and policies governing the employment of the funds in the hands of the banker with special reference to the lending banker.

State Policy on Loans and Advances - Priority sector advances and socio-economic policies - Self-employment schemes, DRI, IRDP etc. - Women entrepreneurs - Small scale industries - Agricultural finance, Export finance etc. - How the banker profitably uses the fund - Call loans and loans repayable at short notice - Loans and advances - Overdrafts - Legal control over bank's deployment of funds.

- ***Module 8: Securities for Banker's Loans***

In this module, the legal issues involved in and the practice governing the different kinds of securities for banker's advances and loans are examined in detail. The study comprises examination of the legal nature of transactions such as guarantee mortgage, lien, hypothecation, etc.

1) Guarantees, pledge, lien, mortgage, charge - subject matters of collateral security.

- a) Corporate Securities
- b) Documents of title to goods
- c) Land and Buildings

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- d) Book debts
 - e) Life policies

2 (a) Factoring, (b) Bill Discounting, (c) Bank Guarantees, (d) Letters of Credit, (e) Commercial Papers

The legal and practical issues involved in each type of security will be discussed.

- ***Module 9: Procedural Aspects of Banking Law***

Attachment of bank accounts - Freeze orders - Summoning of bank accounts etc. - Relevant sections of CPC, eg. Section 64 Order 21 Rule 46 - C.P.C. Section 91 - Bankers (Books of Accounts) Evidence Act etc.

- ***Module 10: Modern Aspects of Banking***

1. Role of Banks in the Corporate Sector - includes DEMAT of Shares, Loans, Corporate Management, Consultancy Services.
 2. Concept of Banking - New Methods of Banking, Net Banking, Telephone Banking, Global Access Banks, Credit Cards, Debit Cards, ATMs, Smart Cards, International Cards.
 3. Influence of Computers - Electronic Cash Bank, Virtual Bank, Digital Cash, Regulatory Implications of Banking on the Internet (Encryption Export Controls, Money Laundering, Economic Sanctions, "Core" Bank Regulatory Issues, Consumer Protection, Taxation, Monetary Policy, Dispute Resolution); Electronic Mints, Electronic Fund Transfers.
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4. **Frauds in Banking Operation: Copying, Hacking, Illegal Electronic Fund Transfer, Duplication.**
5. **Implementation of Traditional Law into the Innovative Cyber World: Legal Validity of an Electronic Mail, Electronic Promissory Notes, Bills of Exchanges (Law after the Information Technology Act, 2000).**
6. **Globalization and its effects in the Liberalized Banking Sector - Foreign Banks, Entry Norms.**
7. **Capital Account Convertibility.**
8. **Prevention of Economic Offences Cell of CBI.**
9. **Integrated Risk Management Committee and Operational Risk Management. Committee based on the Basle Committee proposal to prescribe a capital charge for operational risk.**