



Banking Regulation Act, 1949 (AACCS)

Lecture & Presentation
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About the Act

- Act passed in 1949 for regulation of the banking in India
- Made applicable to Co-operative Banks in 1964
- As per the Act Reserve Bank of India is the regulatory authority for Banks
- Reserve Bank of India has some powers for regulation of Banks under the RBI Act, 1935 also

Commencement

- By introducing Section 56 in the Banking Regulation Act, 1949 w.e.f. 1st March, 1966 the Act was made applicable to the Co-operative Banks
- Section 56 modifies the provisions of the Act as applicable to the Co-operative Banks

Applicability against other laws

- Provisions of the Banking regulation Act, 1949 are not in substitution of other laws applicable, unless otherwise expressly said (Section 2 r.w. 56 (b))
- Act is not applicable to
 - 1 Primary Agricultural Society
 - 2 Co-operative Land Mortgage Bank
 - 3 Any other co-operative society except as provided by Sec. 56
(Section 3)

Approved Securities

- “Approved Securities” means securities in which a trustee may invest money under applicable provisions of the Indian Trust Act, 1882 and the securities approved by the Central govt. under Section 20(f) of the said Act

Section 5(a)

Banking definition

- “Banking” means the accepting, for the purpose of lending or investment, of the deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise

Section 5(b)

Banking Policy

- “Banking Policy” means policy specified by RBI from time to time in the interest of
 - Banking system
 - Monetary stability
 - Sound economic growth
 - Interest of depositors
 - Volume of deposits and other resources of the bank
 - Efficient use of the deposits and resources

.....Section 5(ca)

Demand and Time Liabilities (DTL)

- “Demand Liabilities” means liabilities which must be met on demand and
- “Time Liabilities” means liabilities which are not demand liabilities

Section 5(f)

Secured and Unsecured Loan or Advance

- “Secured Loan or Advance” means a loan or advance made on the security of assets the market value of which is not at any time less than the amount of such loan or advance

and “Unsecured Loan or Advance” means a loan or advance not so secured

.....Section 5(n)

Act to supersede By-law etc.

- If any provision in the By-law or any resolution passed by the Board or the General Body or any body entrusted with the management of the society by the Board contradicts the provisions of the Act, then the same are void and the Act supersedes

Section 5A r. w. 56(d)

Business bank can do

Section 6(1) and 6(2) r.w. 56(b)

- Borrowing, raising or taking of money
- Giving advance
- Bills business
- L/C , Bank Guarantee, Indemnity
- Foreign exchange
- Providing safe deposit vaults

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Business bank can do

Section 6(1) and 6(2) r.w. 56(b)

- **Collecting and transmitting money**
- Managing, selling and realizing any property that may come into the possession of the bank in satisfaction or part satisfaction of any of its dues

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Business bank can do

Section 6(1) and 6(2) r.w. 56(b)

- Acquiring, holding and dealing with any property or any right, title or interest in any such property that may form the security or part of the security for any loans or advances or which may be connected with such security
- Undertaking and executing trusts

..... Contd

Business bank can do

Section 6(1) and 6(2) r.w. 56(b)

- Acquiring, constructing, maintaining and altering of any building for the purpose of the bank
- Acquiring and undertaking the whole or part of the business of any person or bank / company if its nature of business is as per the allowed business for the bank

..... Contd.

Business bank can do

Section 6(1) and 6(2) r.w. 56(b)

- Doing all such other things as are incidental or conducive to the promotion or advancement of the business of the bank
- Any other business the Central Govt. may by notification specify as a allowed business
- Banks are prohibited to do any other business

Bank holding acquired immovable property

- The property acquired by the bank in satisfaction of the whole or part of the dues can be disposed by the bank within seven years from the date of acquisition
- The period can be extended by RBI up to five more years if doing so is in the interest of the depositors
- Bank can use the property for its own use and may retain it for self use and then it may not be disposed

Section 9 r. w. 56 (fii)

Minimum paid up capital

- No Co-operative bank shall commence or carry on the business of banking unless the aggregate value of its paid-up capital and reserves is not less than Rs. 1.00 lac
- Value means the real and exchangeable value and such value drawn by the Reserve Bank shall be final

Section 11 r. w. 56 (h)

Cash Reserve (CRR)

Section 18 r. w. 56 (j)

- Every bank is required to keep cash reserve, with itself or by way of balance in the current account with RBI or Central / District Co-operative Bank or net balance in all such way, of minimum prescribed % amount of its DTL as of last Friday of fortnight
- A return about this has to be submitted to RBI before 15th of each month about alternate Friday

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Cash Reserve (CRR)

Section 18 r. w. 56 (j)

- For schedule Co-operative banks the minimum cash reserve prescribed is 5% under Section 42(1) of the Reserve Bank of India Act, 1935
- For non-schedule UCBs cash reserve is 3% as per Section 18 r.w. 56(j) of the Banking Regulation Act, 1949
- Master Circular on this issue is UBD.CO.RET/MC No 12/12.33.000/2006-07 dated Nov. 1, 2006

Fortnight – for CRR

- “Fortnight” means period from Saturday to the second following Friday

Section 18 r. w. 56(j)(b)

Restriction on holding shares of other Co-operative society

- Co-operative bank shall not hold shares in any other co-operative society, except to the extent and on conditions as prescribed by RBI
- The exception allowed by the Act is holding shares of central or State co-operative bank to which the investing bank is affiliated
- Other exception allowed by the RBI is for holding shares of Associations and Federations of Banks of which the investing bank is member

Section 19 r. w. Section 56(k)

Restrictions on loans and advances

No co-operative bank shall grant any loans or advances,

1. On the security of its own shares or
2. **To any of its directors or**
3. To firms or private companies in which any of its directors is interested as partner or managing director or
4. **To any individual in case a director is a guarantor**

Section 20(1) r. w. Section 56(I) contd.

Restrictions on loans and advances

- Every co-operative bank is required to file a monthly return in prescribed form to RBI about unsecured loans and advances to its directors and their related accounts

Section 20(2) r. w. Section 56(I)

Restrictions on loans and advances

- If from the return submitted by the bank RBI is of the view that the loans or advances are to the detriment of the interests of the depositors, the RBI may prohibit the bank from granting any such further loans or advances or give such order as it deems fit

Section 20(3) r. w. 56(I)

Restriction on remitting director related debts

Section 20-A r. w. 56(m)(i) and (ii)

No co-operative bank shall, except with the prior approval of the RBI, remit in whole or part any debt due to it by,

1. Any of its past or present director
2. Any firm or company in which any of its directors is interested as director, partner, managing agent or guarantor
3. Any individual if any of its director is his partner or guarantor

Rate of interest – not subject to scrutiny by Courts

- A transaction between a bank and its debtor shall not be reopened by any Court on the ground that the rate of interest charged by the bank is excessive

Section 21-A

Licensing of banks

- No co-operative society shall carry on banking business in India unless it is a cooperative bank and holds a license issued in that behalf by the RBI, subject to such conditions as the RBI may deem fit.

Section 22(1) r. w. 56(o)(i)(b)

Branch licensing

- No co-operative bank shall without prior permission of RBI open new place of business or change otherwise than within the same city, town or village, the location of an existing place of business.

(This is subject to a proviso)

Section 23 r. w. 56(p)(i)

Branch licensing - exception

- No permission as contemplated for branch licensing under section 23(1) is required from RBI if there is opening of place of business, in the area where the bank already has a place of business, for less than one month for the purpose of affording banking facilities to the public on the occasion of an exhibition, a conference or a mela or any like occasion

Section 23 r. w. 56(p)(i) – proviso (a)

SLR

(Statutory Liquidity Ratio)

- Bank shall maintain unencumbered approved securities, valued not exceeding the current market price, or an amount which shall not be less than 25% of the total of its demand and time liabilities (DTL)

Section 24(1) r. w. 56(q)(i) contd. ...

SLR

(Statutory Liquidity Ratio – what is included)

1. Balances maintained in India in current account/s with RBI
2. Any balance maintained with central co-operative bank of the district concerned or with the State co-operative bank concerned

Contd.

SLR

(Statutory Liquidity Ratio – what is included)

3. Gold valued at a price not exceeding the current market price
4. Unencumbered approved securities
5. Cash maintained by the bank with itself (only for non-scheduled banks)

Section 24 (2) and (2A) r. w. 56(q)(ii)

SLR – Reporting to RBI

- Every bank is required to furnish a prescribed monthly return to RBI not later than 21 days after the month end giving position at the close of alternate Fridays of that month about,
 - Particulars of assets maintained in accordance with section 24 and
 - Demand and term liabilities
 - If any Friday is a holiday next day's position is required to be given
 - RBI has powers to call this position on daily basis also

Section 24(3) and (5) r. w. 56 (q)(iii)

SLR – Default - Penalty

- If there is default in maintaining the SLR, a penalty of interest @ 3% p. a. above bank rate for per day of default is imposed on the defaulted amount
- If the default continues or occurs on next alternate Friday the penal interest rate is increased to 5% p. a.
- The penalty payable as above shall be payable within 30 days from the date of demand by RBI
Section 24(4) and (6) r. w. 56(q)(iv)

SLR – Default - Penalty

- If RBI is satisfied that the SLR default is knowingly and willful every director, manager or secretary responsible shall be punished with fine of Rs. 500/- and further fine of Rs. 500/- for each alternate Friday if default continues

Section 24(7)

SLR – Default - Exemption

- If the RBI is satisfied on the application made by the bank that there are sufficient grounds for not maintaining the SLR the RBI may not impose penalties

Section 24(8)

CRR / SLR Maintenance - Exemption

- RBI can by issuing notification in the Official Gazette exempt any co-operative bank or class of co-operative banks from the requirements of maintaining CRR or SLR with reference to whole or part of assets and liabilities of such bank or banks

Section 24(A) r. w. 56(qq)

Unclaimed deposits

- Every bank is required to submit to RBI within 30 days of close of each year a return in prescribed format and manner of all accounts which have not been operated upon for ten years
- In case of fixed deposit accounts the period of ten years shall be calculated from the date of maturity

Section 26 r. w. 56(ri)

Monthly and other returns RBI powers

- Every bank is required to submit a monthly return in prescribed form and manner, before the close of succeeding month to which it relates, showing the assets and liabilities of the bank at the close of last Friday of the month to which it relates

Section 27(1)

RBI powers to call information

- RBI has powers to call at any time such statements and information in such manner and form as it deems fit relating to the business and affairs of the bank
- RBI has also powers to call for half yearly information regarding the investment of the bank and classification of advances

Section 27(2)

RBI powers to publish information about bank

- RBI has powers to publish any information obtained by them under the Banking Regulation Act, 1949 (aacs) in such consolidated form as it deems fit if according to RBI doing so is in the public interest

Section 28

Accounts and Balance-sheet

- Every co-operative bank is required to prepare balance-sheet and profit and loss account at the expiration of the year ending with 31st March in the form set out in the Third Schedule of the Act
- The balance-sheet and profit and loss account needs to be signed by the principle officer of the bank and at least three directors

Section 29(1) and (2) r. w. 56(s)

Accounts and Balance-sheet

- The balance-sheet and profit and loss accounts along with auditors report are required to be published in the manner as prescribed by RBI within six months from year end and three copies thereof are required to be submitted to RBI as returns

Section 31 r. w. 56(t)(i)

Production of documents of confidential nature

Section 34-A(1)

Notwithstanding anything contained in any law, no bank can be compelled by any authority, in any proceeding, to produce or give inspection of any of its books of accounts or documents or furnish or disclose any information when the bank claims that such document or information is of confidential nature.

Contd.

Production of documents of confidential nature

Section 34-A(1)

- Bank can refuse production or inspection of document or the furnishing of information relating to,
 1. Any reserve not shown as such in its published balance-sheet
 2. Any particulars not shown in the balance-sheet in respect of BDDR or other usual or necessary provisions

Production of documents of confidential nature – RBI intervention

Section 34-A(2)

- If in any proceeding a question arises as to whether any reserve or provision stated above at section 34A(1) should be taken into account or not, the authority before whom the proceeding is pending may refer the matter to RBI.

Contd.

Production of documents of confidential nature – RBI intervention

Section 34-A(2)

- RBI shall after considering the sound banking practices and relevant circumstances, furnish to the authority a certificate stating how much amount the authority should consider or not consider.
- The certificate issued by the RBI shall be final and shall not be called in question in any proceeding.

Inspection of Banks – Section 35

- 35(1) – RBI on its own or if directed by the Central Govt. may cause a inspection to be made by one or more of its officials of any bank and its books of accounts. On inspection RBI has to give a copy of the report to the bank and may give a copy to the Registrar of Co-operative Societies

Inspection of Banks – Section 35

- 35(1A)(a) – Additionally RBI may make a scrutiny of the affairs of the bank and its books of accounts
- 35(1A)(b) – Copy of the scrutiny report may be given to the bank if requested so by the bank. But if any action against the bank is contemplated based on the scrutiny the report has to be given to the bank

Inspection of Banks – Section 35

- 35 (2)– Every director, officer and employee of the bank shall produce to any officer making inspection under 35(1) or scrutiny under 35(1A) all such books, accounts, documents in his custody or power and furnish him any statement and information relating to the affairs of the bank as the said officer may require and in such time as asked

Inspection of Banks – Section 35

- 35(3) – any person making the inspection under section 35(1) or scrutiny under 35(1A) may examine on oath any director, officer or employee and administer oath to him.

Inspection of Banks – Section 35

- 35(4) – If the RBI is of the opinion that the affairs of the bank are being conducted to the detriment of the interests of the depositors, it may report it to the Central Govt. and the Central Govt. may after giving opportunity to the bank prohibit the bank from receiving deposits

Inspection of Banks – Section 35

- 35(5) – The Central Govt. may after giving reasonable opportunity to the bank publish the report submitted by RBI or part of such report as may be necessary

Directions from RBI

RBI can issue directions to any co-operative bank or class of co-operative banks if RBI is satisfied that doing so is necessary,

1. In the public interest or
 2. In the interest of banking policy or
 3. To prevent the affairs of the bank being conducted in a manner detrimental to the interests of the depositors or prejudicial to the interests of bank or
 4. To secure the management of the bank generally,
- and the banks are bound to follow the directions.

Section 35A r. w. 56(x)

RBI powers to depute officers at Urban Co-operative Bank

Section 36-A(1)(d) r. w. 56 (z)

- If RBI is satisfied that for reorganization or expansion of co-operative credit on sound lines it is necessary so to do, by an order in writing and on terms and conditions may
 1. Depute one or more officers to watch the proceedings at any meeting of the Board of Directors or any other body constituted by it and speak in the meeting and give advice as the officer may deem fit
- contd. ...**

RBI powers to depute officers at Urban Co-operative Bank

Section 36-A(1)(d) r. w. 56 (z)

2. Appoint one or more of its officers to observe the manner in which the affairs of the co-operative bank or its offices or branches are being conducted.
3. In both the above cases the officer is required to give a report to RBI about the proceedings and observations.

Certain activities in relation to bank – punishable Section 36-AD

- Following activities are punishable with six month imprisonment or fine or both,
 1. Obstructing any person from lawfully entering or leaving any office or place of business of the bank or from carrying on any business there

Contd.

Certain activities
in relation to bank – punishable
Section 36-AD

2. Holding within the office or place of business of the bank, any demonstration which is violent or which prevents or is likely to prevent the transaction of normal banking business
3. Acting in any manner calculated to undermine the confidence of the depositors in the bank

Power to suspend business of bank

Moratorium

Section 45(1) and (2)

- If it appears to RBI for good reasons so to do, the RBI may apply to Central Govt. for an order of moratorium in respect of the bank.
- The Central Govt., considering application of RBI, may make order of moratorium staying the continuation of all actions and proceedings against the bank for not more than six months

Contd. ..

Power to suspend business of bank

Moratorium

Section 45(3)

- Except as provided in the directions given by the Central Govt., no bank against whom moratorium orders are issued shall make any payment to any depositor or discharge any liability or obligation to any creditor

Preservation of record by bank

- The Central Govt., after consultation with RBI makes the rules specifying the period for which the bank shall,
 1. Preserve its books, accounts and other documents and
 2. Preserve and keep with itself different instruments paid by it

Section 45Y

Return of paid instruments to customers

- If the customer asks, before the expiry of preservation period, for return of original instrument issued by him and paid by the bank the bank has to give the same to him keeping a copy with the bank
- Cost of copying has to be recovered by the bank from the customer

Section 45Z

Nomination for – Deposit

Section 45ZA

- When the deposit is held by the bank to the credit of one or more persons, the depositor or all the depositors together may nominate in the prescribed manner one person to whom in the event of death of depositor or all depositors the amount of deposit be returned by the bank

Contd.

Nomination for – Deposit

Section 45ZA

- After the death of depositor/s the nominee becomes entitled to all the rights of the depositor/s to the exclusion of other persons
- Nomination once made can be cancelled or modified by the depositor/s in the prescribed manner

Nomination for – Deposit

Section 45ZAs

- If the nominee is a minor the depositor/s making nomination is entitled to appoint a guardian for the minor till his/her minority
- Payment made by the bank in accordance with the nomination under section 45ZA gives full discharge to the bank for its liability in respect of deposit

Notice of claim on deposit

Section 45ZB

- No notice of the claim of deposit, other than the person or persons in whose name the deposit is held, shall be receivable by the bank, nor shall the bank be bound by the notice even if expressly given.
- Bank shall, however, take a note of the decree, order, certificate or such other document from the competent court, having jurisdiction, about the deposit.

Nomination – Safe Custody and Locker

- For safe custody articles provisions regarding nomination and notice are similar to that for deposit are at section 45ZC and 45ZD
- For safety lockers provisions regarding nomination and notice are similar to that for deposit are at section 45ZE and 45ZF

Penalties

- For giving false information to RBI, for not giving the information or called documents, for contravening the directives issued by RBI and such other issues the Act provides elaborate penal provisions at section 46 r. w. 56(zc) prescribing the imprisonment or fine or both to the erring staff or director of the bank.
- RBI has also powers to impose monetary penalties on the bank under section 47A

Protection to Central Govt. / RBI

- No action, suit, proceeding or case can be initiated in any court against the Central Govt. or RBI and its officers when they have taken any action in good faith under the Banking Regulation Act, 1949

Section 54

Thanks

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