

Section 11: contains provisions to ensure adequacy of minimum paid up capital and reserves. Adequacy of capital is essential for the soundness of a banking company. The Banking Companies (Amendment) Act, 1962, raised the minimum amount of the value of paid up capital to 5 lakhs for any Indian Bank.

The term 'value' means the real or exchangeable value. The real or exchangeable value of capital and reserves is computed by estimating the realisable value of all the assets and deducting therefrom the amounts of outside liabilities.

Section 12 also provides that the subscribed capital of a banking company should not be less than one half of its authorised capital and the paid up capital should not be less than one-half of the subscribed capital. (4:2:1)

- A banking company incorporated in India, should have the minimum aggregate value of its paid up capital and reserves as prescribed in the Act:
- (i) If it has places of business in more than one state - Rs 5 lakhs
- (ii) If any such place of business is situated in Mumbai or Kolkata or both - Rs 10 lakhs
- (iii) If it has all its places of business in one state, none of which is situated in the city of spread d Mumbai or Kolkata:
 - ✓ In respect of its principal place of business – Rs 1 lakhs plus
 - ✓ In respect of each of its other places of business situated in the district of principal business - Rs 10,000 plus
 - ✓ In respect of each place of business situated elsewhere in the state outside the same district - Rs 25,000
- Subject to a total of, -Rs 5 lakhs

- Foreign Banks :
- In case of a banking company incorporated outside India, the aggregate value of its paid up capital and reserves shall not be less than **15 lakhs**, and if it has a place of business in the city of Mumbai or Kolkata, or both, **20 lakhs**.
- The Act also requires a foreign banking company to deposit with the Reserve Bank at the end of each calendar year an amount equal to 20% of the profit for that year in respect of all businesses transacted through its branches in India.

- LICENSING OF BANKING COMPANIES

- [Section 22](#) provides that it is essential for every banking company to hold a licence issued by the Reserve Bank. The licence is issued by the Reserve Bank after conducting the inspection the books of accounts of the banking company and on satisfaction of the following conditions:

- ✓ That the company will be in a position to pay its present and future depositors in full as their claims accrue,
- ✓ That the affairs of the company are not being, or not likely to be conducted in a manner detrimental to the interest of its present or future depositors,
- ✓ That the general character of the proposed management of the company will not be prejudicial to the public interest or the interests of the depositors.
- ✓ That the company has adequate capital structure and earning prospects.
- ✓ That the public interest will be served by the grant of a licence to the company to carry on banking business in India.
- ✓ That the grant of licence would not be prejudicial to the operation and consolidation of the banking system consistent with monetary stability and economic growth.

- In case of granting a licence to a banking company incorporated outside India, the following additional conditions should also be satisfied:
- The carrying on of banking business by such company in India will be in the public interest.
- The government or law of the country in which it is incorporated does not discriminate in any way against banking companies registered in India.
- The company complies with all the provisions of the Act applicable to such companies

- OPENING BRANCHES
- **Section 23** provides that every banking company should take Reserve Bank's prior permission for opening a new place of business in India, or to change the location of an existing place of business in India. Similar permission is also necessary for Indian banks for opening a new place of business outside India, or for changing the location of an existing place of business outside India. However, for a change of location within the same city, town or village and opening of a temporary place of business for a maximum period of one month within a city, for the purpose of providing banking facilities to the public on the occasion of an exhibition, a conference or a mela, no such permission is required from the Reserve Bank.
- The Reserve Bank has to take into account the following factors in deciding the application of the bank for opening a branch:
 - (i) The financial conditions and history of the company.
 - (ii) The general character of its management.
 - (iii) The adequacy of its capital structure and earning prospects
 - (iv) The public interest

- MAINTENANCE OF LIQUID ASSETS:
- **Section 24** of the Banking Regulation Act, (Amendment) of 1983, provides that every banking company is required to maintain in India, in cash, gold or unencumbered (Free of debt or other financial liability) approved securities an amount which shall not at the close of business on any day be less than **25 %** of the total of its demand and time liabilities in India. This is also known as 'Statutory Liquidity Ratio (SLR).
- The Reserve Bank is empowered to step up this ratio up to 40 per cent so as to compel the banks to keep a large proportion of their liabilities in liquid assets. The Act also provides that gold and approved securities should be valued at a price not exceeding the current market price.

- INSPECTION OF BANKS:
- **Section 35** of the Act, provides that the Reserve Bank, may either at its own initiative or at the instance of the Central Government cause an inspection to be made by one or more of its officers, of any banking company and its books of accounts. Even director, officer or employee of the banking company shall be under an obligation to produce to the Reserve Bank Officer all such books, accounts and other documents in his custody or power and to furnish him with any statements and information relating to the affairs of the banking company.
- If on the basis of inspection report submitted by the Reserve Bank, the Central Government is of the opinion that the affairs of the banking company are conducted to the detriment of the interests of its depositors, it may order in writing
 - ✓ Prohibit the banking company from receiving fresh deposits.or
 - ✓ Direct the Reserve Bank to apply for the winding up of the banking company. However, before passing such an order, the banking company will be given reasonable opportunity to make a representation in connection with the report.

- **Section 35 A**, empowers Reserve Bank to issue directions from time to time to banking companies generally or to any banking company in particular, if it is satisfied that such directions as it deems fit are necessary
- (a) in the public interest of banking policy;
- (b) to prevent the affairs of any banking company being conducted in a manner detrimental to the interests of depositors or in a manner prejudicial to the interest of the banking company

- **Section 20** :The section lays down the following restrictions on advances granted by the banks
- (i) The banking company cannot grant loans and advances on the security of its own shares.
- (ii) The banking company cannot enter into any commitment for granting any loan or advance to or on behalf of:
 - (a) any of its directors
 - (b) any firm in which any of its directors is interested as partner, manager, employee or guarantor,
 - (c) any company, or its subsidiary, or holding company of which any of the directors of the banking company is a director, manager, employee or guarantor or in which he holds substantial interest

- MANAGEMENT OF BANKING COMPANIES
- Constitution of Board of Directors: [Sec 10](#), provides that every banking company is required to constitute its Board of Directors in such a way that not less than 51 % of the total number of members of the Board shall consist of persons who satisfy the following conditions:
 - ✓ They have special knowledge or practical experience in respect of one or more matters namely accountancy, agriculture and rural economy, banking, cooperation, economics, finance, law, small scale industry or any other matter which, in the opinion of the Reserve Bank would be useful to the banking company. Out of these number of directors, not less than two shall have knowledge or practical experience in respect of agriculture and rural economy, cooperation and small-scale industry.
 - ✓ They do not have substantial interest in, or be connected with, (as employee or manager) any company or any firm, which carries on any trade, commerce, industry. They should not be proprietors of any trading, commercial or industrial concern (except under Sec 25 of the Companies Act, 1956)
- [Sec 16](#) of the Act, prohibits a common director of a banking company.

- Appointment of Chairman : Every banking company shall have one of its directors as the chairman of its Board of Directors. The chairman is required to be in the whole-time employment of the bank. He shall hold office for a period not exceeding 5 years, as the Board may fix. He shall be eligible for re-election or re-appointment.
- The election or appointment of the chairman must be to the Satisfaction of the Reserve Bank. If the Reserve Bank is of the opinion that any person appointed as chairman is not a fit or proper person to hold such office, it may direct the banking company to remove the chairman.
- Control Over Top Management : [Sec 12A](#), confers on the Reserve Bank the power to require any banking company to call a general meeting of the shareholders of the company within the prescribed time limit to elect fresh directors in accordance with the voting rights permissible under the Act, [Sec 35 B](#), requires every banking company to take prior approval of the Reserve Bank for the appointment, re-appointment or termination of a chairman, a managing or whole time director, manager or chief executive officer.
- [Sec 36 AA](#) of the Act, also confers upon the Reserve Bank the power to remove the top managerial personnel of the banking companies

- RESERVE BANK OF INDIA

- ✓ The Reserve Bank of India (RBI) was established on 1st April, 1935
- ✓ The RBI was nationalised on January 1, 1949.

- ROLE OF RBI

- Note Issuing Authority
- Banker to Governments
- Banker's Bank
- Exchange Management and Control
- Supervising Authority
- Credit Control
- Development and Promotion
- Export Finance

- RBI was empowered to collect credit information from banking companies and to furnish such information in a consolidated form to any banking company applying for the same along with the prescribed fee. The term credit information means any information relating to
 - ✓ The amounts and the nature of loans or advances and other credit facilities granted by a banking company to any borrower or class of borrower,
 - ✓ The nature of security taken from any borrower or class of borrowers for credit facilities granted to him or to such class,
 - ✓ The guarantee furnished by a banking company for any of its customer or any class of its customers,
 - ✓ The means, antecedents, history of financial transaction and the creditworthiness of any borrower or class borrowers , etc
- **Sec 45-C** empowers the Reserve Bank of India to direct any banking company to submit to it the statements relating to credit information in the specified form and time Every banking company shall be bound to comply with such direction.

- **SCHEDULED BANKS** : The Second schedule of the Reserve Bank of India Act, contains a list of banks which are described as 'Scheduled Banks. A bank in order to be designated as a scheduled bank, should have paid up capital and reserves as prescribed by the Act. As per [Sec 42 \(6\)](#) of the RBI Act, 1934, the required amount is only 5 lakhs. However, to start a commercial bank today, the Reserve Bank has prescribed a minimum capital of 100 crores .The scheduled banks are required to maintain with the Reserve Bank a deposit in the form of Cash Reserve Ratio, based on its demand and time liabilities, at a prescribed rate.
- **Non-Scheduled Banks** : The commercial banks which are not included in the Second schedule of the RBI Act, 1934 are called as Non Scheduled Banks. They are not entitled to facilities like refinance, and rediscounting of bills from the Reserve Bank, They do not get the privileges that are available to the scheduled bank .They are mainly engaged in money lending, discounting and collecting bills and various other agency services

- **NON-BANKING FINANCE COMPANIES (NBFCs)**
- Financial institutions which are different in nature from banks. The institutions are called as Non-Banking Finance Companies. They provide a wide range of fund based and non-fund based assistance to the business units. These institutions provide foreign currency loans, direct subscription to and underwriting industrial securities, guaranteeing loans and deferred payments refinancing and rediscounting, lease finance, advisory consultancy, merchant banking and venture capital services. Investment and Finance companies comprising trusts, loan and finance companies, nidhis and other finance companies specialize in giving loans for consumption, business and other commercial purposes. They have close links and they constitute the small scale decentralized sector of financial system in India
- The Reserve Bank of India has been controlling all these NBFCs. The RBI Act, has been amended in 1997 in order to give more powers to Reserve Bank in controlling and supervising these non-bank finance companies

- Non-banking finance company mobilises savings of the people and diverts the same for financing different activities. A banking company also performs similar type of activities. However,
- A banking company is governed by the Banking Regulation Act, of 1949.
- Moreover, a banking company accepts short-term and long-term (including demand deposits) deposits up to an unlimited extent and money can be withdrawn by drawing cheques on the accounts maintained with it.
- A non banking finance company does not fulfil any of these two criteria.
- In order to identify a non-banking finance company, Reserve Bank considers both the assets and the income pattern of the company as evidenced from the last audited balance sheet. A company is treated as NBFC, if its financial assets are more than 50% of its total assets (netted off by intangible assets) and income from financial assets should be more than 50% of the gross income.

- REGISTRATION WITH RBI : With the Amendment of the RBI Act, 1934 in January, 1997, ([Sec 45 IA](#)) all Non-Bank Finance Companies have to be mandatorily registered with the Reserve Bank of India. A NBFC requires compulsory registration with Reserve Bank to commence or carry on any financial business. Auditors of all NBFCs are required to report directly to Reserve Bank for non-compliance by any company of these statutory provisions. The Reserve Bank has also powers to reject the Registration or cancellation of the Registration of NBFCs.