

The Banking Regulation Act, 1949

A] Definitions:

1. Banking Sec 5(b)

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

2. Banking Company Sec 5(c)

Any company which transacts the business of Banking in India - Any manufacturing / trading company accepts deposits of money from public for financing its business is not in the banking business.

3. Secured loans or Advances Sec 5(x)

It means a loan or advance made on the security of assets, the market value of which (is not less than) the amount of such loan or advance.

- "Loan or advance" which is not secured is unsecured.

4. Small-scale Industrial Concern Sec 5(xa)

An industrial concern in which investment in Plant & Machinery is upto ₹ 7.5 lakh or such higher amount, not exceeding ₹ 20 lakh, as CG may by notification in Official Gazette (OG), specify in this behalf, having regards to trends in industrial development & other relevant factors.

5. Substantial Interest Sec 5(xe)

Base	Persons Involved	Amount Involved
5 In relation to a <u>Company</u>	holding of beneficial interest by an individual or his spouse or minor child, whether <u>singly or jointly</u> .	in the shares thereof, amount paid up on which <u>exceeds</u> :- 5 lakh or } whichever 10% of PUSC } is lower.
10 In relation to a <u>Firm</u>	Same as above	Which represents <u>10%</u> of total capital subscribed by all partners of firm.

B] Sec 7 Use of words "Bank, Banker, Banking or Banking Co"

20 Company (except Banking Co) Firm Individual or Group of Individuals.	} for the purpose of carry on its business <u>shall not</u> use as part of its name or in connection with business any of these words.
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Note: Nothing in this section shall apply to any association of Banks formed for protection of their mutual interests & regⁿ uls 25 of the companies Act, 1956.

C] Disposal of Non-Banking Assets Sec 9

- Immovable property can be held max. for 7 years
- RBI ✓ extension for max. 5 years
- If property is held for own use then above conditions is not applicable.

D] Sec 10A BOD to include persons with Profession

1. At least 51% of total no. of members of BOD of banking company, shall have special knowledge or practical experience in any one or more of the following:-

- Agriculture & Rural Economy;
- Co-operation,
- Small Scale Industry,
- Accountancy, Banking,
- Economics, Finance, Law,
- any other matter as RBI thinks useful to banking.

2. At least 2 among these shall have special knowledge or practical experience in following:

- Agriculture & Rural Economy
- Co-operation
- Small Scale Industry.

If above requirements are not fulfilled at any time then,

BOD of Banking Company



Reconstitute the Board



For reconstitution



Board shall retire any Director (by lots drawn)



Decision shall be binding on every director of Banking Co.

E] Reserve Fund Sec 17

Minimum 20% of profits before declaration of dividend is to be transferred to Reserve Fund.

CG may grant exemption from above requirement if:

- RBI recommends to CG
- CG check adequacy of PUSC & Reserves
- Amt in Reserve Fund + Share Premium is not less than PUSC
- CG shall specify period of exemption.

F] Cash Reserve Sec 18

Every Banking Co. shall maintain by way of:

Cash Reserve OR Bal: in current Ak with RBI

Sum equivalent to at least 3% of total of its demand & time liabilities as on

[Last Friday of 2nd Preceding fortnight]

Shall submit to RBI

[before 20th day of every month]

A Return

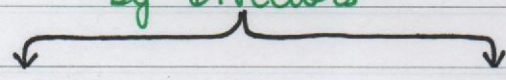
[showing amount - on alternate fridays during a month
particulars of demand - on such friday.
& time liabilities]

Note: 1) If Friday is public holiday, then at close of business on preceding working day.

2) "Fortnight" means period from Saturday to second following Friday, both days are inclusive.

G] Accounts & Balance Sheet **Sec 29**

- The requirements of schedule VI (now schedule III), apply to B/S & P&L Ac of Banking company.
- When to prepare on last working day of Ac year.
- Signing by manager or Principal Officer
by Directors.



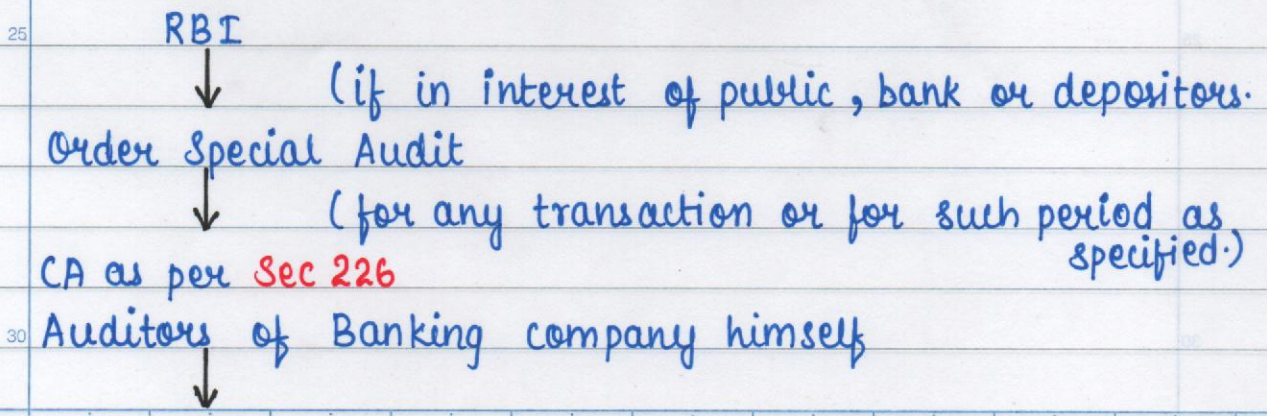
If >3, then by at least 3 In other case, by all directors.

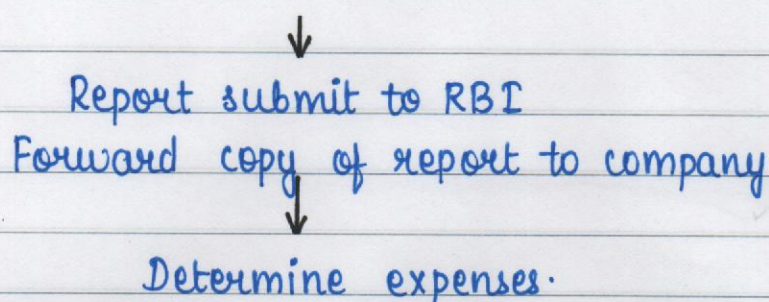
H] Audit of Banking Company **Sec 30**

- CA who is qualified & not disqualified u/s 226 of Co's Act, 1956
- Powers, duties, functions & liabilities - u/s 227 of Co's Act, 1956
- Appointment, reappointment or removal requires previous approval of RBI

Audit Report Disclosures **ITR-P&L**

- Information & explanation required by him - satisfactory/not
- Transactions of company - within powers of company or not
- Returns received - adequate or not
- P&L Ac shows true balance or not.





I] Submission of Returns Sec 31

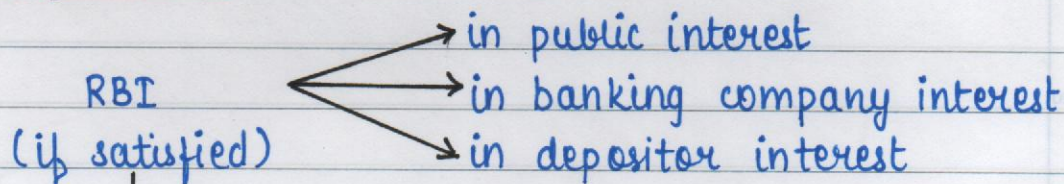
A/c & B/s (as per sec 29) & Auditor's report

↓

Published in prescribed manner

- | | |
|---|--|
| <ul style="list-style-type: none"> • 3 copies → RBI • within 3 months from end of period • extension ✓ by RBI - 3 months | <ul style="list-style-type: none"> • 3 copies - Registrar • At the same time |
|---|--|

J] Powers of RBI

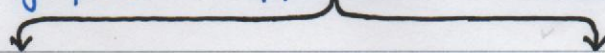


Remove from office
(after reasonable opportunity of being heard)
(any Chairman, director, CEO, officer, employees)

Appoint * additional director
(with effect from date as specified in order.)
* shall not be taken into counting of total no. of directors of Banking company

• Conditions for appointment of Additional Director.

Any person appointed as additional director



5 Shall hold office during pleasure of RBI,

- for period upto 3 years
- extension ✓ 3 years at time

Shall not incur any obligation or liability,

- by reason of being a director
- hold qualification shares.

k] Amendments of provisions relating to appointment of MD, Chairman, any other director, manager, CEO (by whatever name called.)

In case of Banking Company



15 No amendments of any provision relating to max. no. of directors, remuneration, appointment or reappointment shall take effect unless approved by RBI

No appointment, re-appointment, termination of appointment shall take effect unless approved by RBI.

l] Powers of CG to acquire the undertaking of Banking co.

Report from RBI → CG



CG satisfied on certain points *



CG after consolidation with RBI



By notified order



↓

Acquire undertaking (acquired bank)

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with effect from date as specified in order (appointed date)

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All assets & liabilities of acquired bank shall transferred to vest in CG.

* CG satisfied on certain points:

- Banking co. failed to comply with directions given to it.
- It is being managed in matter detrimental to depositor interest.
- In interest of banking policy
- It is necessary for better provisions of credit etc.
- After reasonable opportunity of showing cause is given.

Note: On appointed date, any suit, appeal or other proceeding is pending by or against acquired bank may be continued, prosecuted or enforced by or against CG.

M] Compensation to be given to shareholders of acquired Bank.

1. CG determines compensation amount (according to principles in 5th schedule)
2. in consultation with RBI
3. given to shareholders registered before appointed date
4. If amount of compensation - not acceptable
5. Person requests CG in writing → refer matter to Tribunal (before notified date)
6. CG shall refer if request is from
 - at least $\frac{1}{4}^{\text{th}}$ in no. of shareholders
 - AND
 - at least $\frac{1}{4}^{\text{th}}$ in value of PVC.

7. If request not received (as per point 5 above) then, → amount decided by CG
5. If referred to tribunal → amount decided by IT
- } shall be final & binding on all parties

N] Business in which Banking companies may engage.

10. In addition to business of banking, a banking company may engage in any one or more of the following:

A-I

Acting as Agents

15. for any govt, local authority, other person, carrying on agency business of any description but excluding business of 39 (managing agent or secretary & treasurer) of a company.

Borrowing

20. raising, lending or advancing of money, drawing, making, accepting, discounting bills or dealing in stock, funds, shares, debentures etc.

Contracting

25. for public & private loans and negotiating & issuing the same

Dealing

30. with any property, right, title or interest in any property, which may form security / part of security for any loans or advances or connected with any such security.

Executing Trusts.

or administration of estates as executor, trustee or otherwise.

5 Funds

supporting funds, institutions } that benefit
help in supporting funds, institutions } employee

Guaranteeing,

10 ensuring, underwriting or participating in managing & carrying out of any issue of shares, stocks, debentures, public or private, of state, municipal.

Holding,

15 selling, realising any property which may come into the possession of company in satisfaction of any of its claims

Indemnity Business

20 carrying on & transacting every kind of guarantee & indemnity business.

CG Central Govt

any other form of business which CG may by notification in OG (Official Gazette) may specify.

25

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Amendments in Banking Regulation Act (vide Banking Laws (Amendment) Act, 2015)

Sec 12 Share Capital of Banking Companies

Equity shares
only

OR

Equity & Preference Shares

- issued as per RBI guideline
- No voting right.

* For acquiring shares or voting rights of 5% or more in Banking Co. → RBI approval ✓

when

May be acquired directly / indirectly by person, his relative, associate enterprise or person acting in concert with the person.

- in public interest
- in Banking policy int.
- Banking & financial system

Sec 13 Limit on Commission / Brokerage

The word "Paid up Capital (PUC) of said shares" is replaced "Price at which the said shares are issued" - shall include amount or value of premium on such shares.

Sec 18 Cash Reserve Ratio (CRR)

Non scheduled Bank to maintain CRR "on daily basis"

As notify by RBI, securing monetary stability in country

- RBI can waive the penal interest

- Penal interest 3% above bank rate, on the date CRR ↓ min. limit.
- If shortfall continue then 5% above Bank rate.