

**Banking & Finance Paper III**  
**Banking Law and Practice in India**

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| <b>Semester: V</b> | <b>Subject Code: C 51707</b> | <b>Lectures: 60</b> |
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**Objectives:**

- To acquaint the students with the banking law and practice in relation to the banking system and banking operations
- To equip the students with an understanding of the legal aspects of banking transactions and implications as banker and customer.

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| <b>Unit 1: Negotiable Instrument Act 1881</b>   | <b>12</b> |
| <ul style="list-style-type: none"><li>• Definition, Characteristics &amp; Presumptions;</li><li>• Types;</li><li>• Parties to Negotiable Instrument,</li><li>• Negotiation, Presentment,</li><li>• Dishonour, Noting and Protesting,</li><li>• Illustrations &amp; Case studies</li></ul> |           |

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| <b>Unit 2: Banking Regulation Act, 1949</b>   | <b>6</b>  |
| <ul style="list-style-type: none"> <li>• Definition, Functions- Main and Subsidiary,</li> <li>• Restrictions on Business of Banks,</li> <li>• Capital &amp; Reserve Fund, Cash Reserve and Liquid Assets,</li> <li>• Licensing and Branch Licensing,</li> <li>• Management</li> <li>• Part II – P&amp;L A/c and Balance Sheet [Sec 10, 29 &amp; 30],</li> <li>• Powers of RBI [Sec 35 &amp; 36];</li> <li>• Voluntary Amalgamation [Sec 44A]; Liquidation [Sec 45R];</li> <li>• Recent Amendments: Capital, Voting Rights, Issue of Shares.</li> </ul>  |           |
| <b>Unit 3: Paying and Collecting Banker</b>   | <b>14</b> |
| <ul style="list-style-type: none"> <li>• Paying Banker <ul style="list-style-type: none"> <li>○ Meaning of Paying Banker,</li> <li>○ Duties of Paying Banker,</li> <li>○ Dishonour of Cheques;</li> <li>○ Material Alteration;</li> <li>○ Forgery of Signature-Effect &amp; Exceptions;</li> <li>○ Payment in Due Course;</li> <li>○ Statutory Protection to Paying Banker</li> </ul> </li> <li>• Collecting Banker <ul style="list-style-type: none"> <li>○ Meaning of Collecting Banker,</li> <li>○ Collecting Banker as Holder for Value and As an Agent;</li> <li>○ Duties &amp; Rights of Collecting Banker,</li> <li>○ Statutory Protection to Collecting Banker</li> </ul> </li> </ul> |           |
| <b>Unit 4: Relationship between Banker and Customer</b>   | <b>10</b> |
| <ul style="list-style-type: none"> <li>• Definition, General &amp; Special Features,</li> <li>• Relation of Banker and Customer- <ul style="list-style-type: none"> <li>○ Creditor &amp; Debtor,</li> <li>○ As Agent,</li> <li>○ As Trustee and</li> <li>○ As a Bailee</li> </ul> </li> <li>• Rights of a Banker- <ul style="list-style-type: none"> <li>○ Right of General Lien,</li> <li>○ Appropriation of Payment,</li> <li>○ Set-off and combine accounts;</li> <li>○ Right to Charge Interest and Commission,</li> <li>○ Right not to Produce Books of Accounts,</li> <li>○ Right to Close an account;</li> </ul> </li> <li>• Obligations of a Banker-</li> </ul>                       |           |

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| <ul style="list-style-type: none"> <li>○ Obligation to maintain secrecy of the Account,</li> <li>○ Obligation to carry out directions;</li> <li>● Garnishee Order;</li> <li>● Termination of Relationship</li> </ul> |  |
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| <b>Unit 5: Banking Ombudsman</b>  | <b>6</b> |
| <ul style="list-style-type: none"> <li>● Concept and Meaning</li> <li>● Objectives of Banking Ombudsman</li> <li>● Powers and Duties of Banking Ombudsman</li> <li>● Working (Modus Operandi) of Banking Ombudsman,</li> <li>● Reserve Bank of India Banking Ombudsman Scheme, 1995</li> <li>● Pre-requisites for Complaining to a Banking Ombudsman</li> <li>● Complaints Accepted and Not-Accepted by Banking Ombudsman</li> <li>● Recent Amendments to RBI Banking Ombudsman Scheme</li> </ul> |          |

**\*Assignments and library hours – 12 hours**

**Self Study (Sem V):**

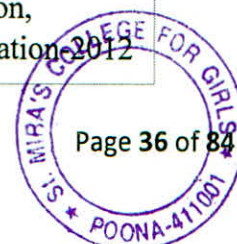
- (1) Reserve Bank of India Act, 1934
- (2) Banking Regulation Act as applicable to Cooperative Banks, 1966

**Bare Acts:**

- Reserve Bank of India, 1934
- Banking Regulation Act, 1949
- RBI Banking Ombudsman Scheme, 2006

**Basic Reading:**

- Albuquerque Daniel (2013) "Legal Aspects of Business- Texts, Jurisprudence and Cases" Oxford University Press
- Gordon E & Natarajan K "Banking Law and Practice in India" Latest publication-2011; Himalaya Publishing House
- Gill G S "Practice and Law of Banking" Latest publication-2005
- Gupta S N "Banking Theory & Law Practice" Latest publication-2010
- Indian Institute of Banking & Finance (2011) 'International Banking'
- Indian Institute of Banking & Finance (2007) 'International Banking Operations'
- Indian Institute of Banking & Finance (2017) 'International Banking Legal & Regulatory Aspects'
- Maheswari "Banking Law and Practice in India" Kalyani Publishers, Latest publication-2009,
- Shekhar K C "Banking Theory and Practice" Vikas Publication, 20th Edition,
- Varshney P N "Banking Law and Practice" Jain Book Depot, Latest publication-2012



### Reference Books:

- Bose Jayashree, Ed. (2007) "Bank Mergers- The Indian Scenario" ICFAI University Press
- Brummer Alex (2015) "Bad Banks: Greed, Incompetence and the Next Global Crisis" Random House
- Ellinger, Lomnicka & Hooley (2007) "Ellinger's Modern Banking Law" Oxford, Indian Edition
- Goel P K (2006) "Business Law for Managers" Biztantra Chapter 5, 8.1, 8.2
- Kamatan Srinivas (2011) Mergers and Acquisitions in Indian Banking Sector: A Study of Selected Banks" Himalaya Publishing House
- Mishkin Frederic & Eakins Stanley (2006) "Financial Markets & Institutions" Pearson, 5<sup>th</sup> edition
- Kothari Vinod (2016) 'Securitization, Asset Reconstruction and Enforcement of Security Interests' Lexis Nexis
- Rohon Rai, P. Mathur (2010) "Mergers and Acquisitions in the Indian Banking System' VDM Verlag
- Vaidyanathan K. (2013) "Credit Risk Management for Indian Banks" Sage Response Business Books
- Tannan M L (2010) "Banking Law and Practice in India" Lexis-Nexis India

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|---------------------|-----------------------------|---------------------|
| <b>Semester: VI</b> | <b>Subject Code: C61707</b> | <b>Lectures: 60</b> |
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**Objectives:**

- To acquaint the students with the banking law and practice in relation to the Indian Banking System.
- To acquaint the students with the banking law and practice in relation to bank business and loan recovery.
- To equip the students with an understanding of the legal aspects of banking transactions in the light of changing business conditions.

**Unit 1: Secured Advances**

**18**

- Principles of Lending
  - Principles of Secured Advances,
  - Types of Securities,
  - Precautions to be taken while accepting securities against advances;
- Modes of Creating Charge against advances –
  - Lien- Meaning, Features
  - Pledge- Meaning & Features,
  - Hypothecation- Meaning & Features,
  - Assignment- Meaning & Features,
  - Mortgage– Meaning & Features, Types
- Recovery Measures
  - Non –legal Measures:
    - Follow-up action,
    - Rescheduling,
    - Compromise,
    - Recovery Camps,
    - One-time settlement;
  - Legal Measures-
    - Lok Adalats - Concept, Structure
    - Corporate Debt Restructuring- Concept, Features
    - Debt Recovery Tribunals- Concept, Structure
- Securities & Reconstruction of Financial Assets & Enforcement of Security Interest Act (SARFAESI), 2002
  - Concept of Securitization,
  - Objectives of the Securitization Act
  - Definitions and Process

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| <b>Unit 2: Policy on Recovery of Loans</b>  | <b>6</b>  |
| <ul style="list-style-type: none"> <li>• Guidelines on Willful Defaulters, 2014 <ul style="list-style-type: none"> <li>○ Definition of Willful Default</li> <li>○ Meaning of Diversion and Siphoning of Funds</li> <li>○ Reporting</li> <li>○ Penalty</li> </ul> </li> <li>• Insolvency and Bankruptcy Code, 2016 <ul style="list-style-type: none"> <li>○ Salient Features and Benefits</li> </ul> </li> <li>• Policy on Bad Bank <ul style="list-style-type: none"> <li>○ Concept and Meaning</li> <li>○ Policy on Bad Bank in India</li> </ul> </li> </ul> |           |
| <b>Unit 3: Prevention of Money Laundering Act (PMLA), 2002</b>  | <b>8</b>  |
| <ul style="list-style-type: none"> <li>• Concept of Money Laundering</li> <li>• Offence of Money Laundering</li> <li>• Obligation to Maintain Records for Banks, Financial Institutions &amp; Intermediaries of Securities Market <ul style="list-style-type: none"> <li>○ Nature of Records, Information on Identity of clients and Maintenance of Records</li> </ul> </li> <li>• Obligation to Access Information</li> <li>• Powers of the Director, Financial Intelligence Unit, India</li> <li>• Penalties</li> </ul>                                     |           |
| <b>Unit 4: Foreign Exchange Management Act, 1999</b>  | <b>10</b> |
| <ul style="list-style-type: none"> <li>• Review of FERA and FEMA;</li> <li>• Definitions</li> <li>• Regulation &amp; Management of Foreign Exchange- Powers of RBI</li> <li>• Concept of Authorized Person <ul style="list-style-type: none"> <li>▪ Meaning,</li> <li>▪ Functions of Authorized Person,</li> <li>▪ Duties of Authorized Person,</li> <li>▪ Powers of RBI with reference to Authorized Person;</li> </ul> </li> <li>• The Enforcement Directorate</li> <li>• Penalties</li> </ul>  |           |
| <b>Unit 5: International Banking</b>  | <b>6</b>  |
| <ul style="list-style-type: none"> <li>• International Banking – Features: <ul style="list-style-type: none"> <li>▪ Legal and Regulatory Aspects,</li> <li>▪ No Geographical boundaries,</li> </ul> </li> </ul>   |           |

- Cost of Capital,
- Current Account and Capital Account Transactions and
- Risks
- Classification of International Banks
  - Correspondent banks,
  - Foreign branches,
  - Foreign subsidiaries & affiliates and
  - Off shore Banking Units
- International Banking Laws- Choice of Law, Proper Law, Use of Language and Nature of Legal Issues/Disputes
- Bank of International Settlements (BIS)- Evolution and Role

**\*Assignments and library hours – 12 hours**

**Bare Acts:**

- Foreign Exchange Management Act (FEMA), 1999
- Prevention of Money Laundering Act (PMLA), 2002
- Securities & Reconstruction of Financial Assets & Enforcement of Security Interest Act (SARFAESI), 2002
- Insolvency and Bankruptcy Code, 2016

**Basic Reading:**

- Albuquerque Daniel (2013) “Legal Aspects of Business- Texts, Jurisprudence and Cases” Oxford University Press
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- Vaidyanathan K. (2013) "Credit Risk Management for Indian Banks" Sage Response Business Books
- Tannan M L (2010) "Banking Law and Practice in India" Lexis-Nexis India

### Reports & Bulletins:

- Report on Trends and Progress of Banking-RBI Annual Reports
- Report on Currency and Finance-RBI Publication
- Reports on Money Laundering
- Reserve Bank Guidelines on Foreign Exchange Management
- Report of the Expert Committee on Legal Aspects of Bank Frauds (2001)

### Circulars:

- RBI Circular – Willful Defaulters