BANKING LAW AND PRACTICE

Mr. Wasiq Iqbal, Dr. Sangeet Vasishta

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CONTENTS

Chapter1. Nationalization of Banks for Implementing Government Policies 1
—Mr. Wasiq Iqbal

Chapter 2. Regulatory Frameworkand Compliances of Bank 11
—Ms. Akansha Sharma

Chapter 3. Constitution of Banks Board of Directors and Their Rights.......... 19
—Ms. Apurva Goyal

Chapter 4. Explores the Significance of Repo Rate and Reverse Repo Rate 27
—Ms. Ranjana Singh

Chapter 5. Disclosure of Accounts and Balance Sheets of Banks 35
—Ms. Ratandeep Kaur

Chapter 6. Effective Corporate Governance Practices 44
—Ms. Richa Chauhan

Chapter 7. A Study on Relationship as Debtor and Creditor 52
—Ms. Tamana Singh Rajput

Chapter 8. Effectof the Customer Signing Confirmation Slips 61
—Dr. Ashu Saini

Chapter 9. Exceptions to the Right of General Lien 70
—Dr. Mohd Kashif

Chapter 10. Examines the Structure and Features of the Current Deposits Premium Scheme.......... 79
—Dr. Kanika

Chapter 11. A16 Study on Guidelines of the RBI for Bank 87
—Dr. Kailash Nath Chaube

Chapter 12. A Brief Study on Legal Aspects of Banking Operations 95
—Dr. Kailash Nath Chaube

Chapter 13. AStudy on Legal Aspects of Collection of a Cheque 104
—Dr. Seema Verma

Chapter 14. Operations in Deposit Accounts and Complaints of Customers 112
—Ms. Aishwarya Saxena

Chapter 15. Examines theSignificance of Banking Related Laws.......... 120
—Ms. Pooja Sharma

Chapter 16. Possession of Property Mortgaged and Hypothecated to Banks 128
—Dr. Sangeet Vasishta

Chapter 17. Examines Different Types of Credit Facilities 137
—Dr. Pradeep Kumar

Chapter 18. Discussion onVarious Types of Term Loans 145
—Dr. Vineek Kaushik

Chapter 19. Transfer of Assets through Direct Assignment /Outright purchases 154
—Dr. Nikita Singhal

Chapter 20. Examines the Concept and Workings of Kisan Credit Card Scheme 163
—Dr. Saukat Ansari

Chapter 21. Legal Control overBank's Deployment of Funds 171
—Dr. Priyank Sharma

Chapter 22. A Brief Study on Precautions to be Taken by the Banker... 181
—Dr. Vivek Rastogi

Chapter 23. Significance of Executing Loan Documentation 190
—Dr. Sandeep Kumar

Chapter 24. Techniques Used in Analysis of Financial Statements 200
—Mr. Gagan Singh

Chapter 25. Financial System Contemporary and Emerging Issue: An Overview 211
—Mr. Praveen Kumar

CHAPTER 1

NATIONALIZATION OF BANKS FOR IMPLEMENTING GOVERNMENTPOLICIES

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ABSTRACT:

The nationalization of banks has been a subject of significant interest and debate in economic and political spheres worldwide. This paper examines the implementation of government policies through the nationalization of banks and its impact on the economy. By exploring case studies from different countries and analyzing relevant economic literature, this study sheds light on the potential advantages and disadvantages of such a policy measure. It also delves into the various ways governments can leverage nationalized banks to achieve their policy objectives effectively. The findings of this research offer valuable insights into the role of nationalized banks in supporting government policies and fostering economic growth.Through this study, we have observed that nationalized banks can facilitate targeted lending to priority sectors, such as agriculture, small businesses, and infrastructure development, promoting equitable growth and development. Additionally, they play a crucial role in stabilizing the financial system during times of economic crisis, as evident from historical instances.

KEYWORDS:

Banking Sector, Economic Development, Financial Stability, Government Control, Industrial Growth, Infrastructure Financing.

INTRODUCTION

The crucial component of the Indian financial system is banks. An effective banking system supports the growth of the economy of the country. The banks are used by many types of society stakeholders for a variety of purposes. Banks act as a conduit for money between depositors and borrowers. In today's altered global business climate, banks provide a wide range of value-added services to their customers in addition to collecting deposits and making loans. As the nation's Central Bank, the Reserve Bank of India fulfills a variety of functions, including regulating, supervising, and facilitating the Indian Banking System.Recognize the distinctive characteristics of the Indian Banking System - Recognize the major contributions of various kinds of banks - Recognize the significance of banking services for the economy[1], [2].

Genesis

Over the last 200 years, the Indian banking system has seen several advancements. Since ancient times, businesses going by the names of Sharoffs, Seths, Sahukars, Mahajans, etc. have operated an indigenous banking system. They carried out the typical tasks of lending money to merchants and craftspeople and sometimes put money at the monarchs' disposal to finance battles. The method of getting public deposits, which is now a crucial function of a bank, could not be developed to a significant level by the local bankers. In India, contemporary banking first emerged in the latter 18th century. The General Bank of India and the Bank of Hindustan were the earliest banks, both of which were founded in 1786. Three presidential banks, the Bank of Bengal, the Bank of Bombay, and the Bank of Madras, were

subsequently established[3], [4]. The Presidency banks served in this capacity for a long time. In order to create the Imperial Bank of India, the three banks combined in 1925. The Union Bank was founded by Indian traders in Calcutta in 1839, but due to the 1848–1849 economic crisis, it went out of business. The Bank of Upper India was founded in 1863 but went out of business in 1913. The oldest continuously operating Joint Stock bank in India is The Allahabad Bank, which was founded in 1865. Faizabad's Oudh Commercial Bank, founded in 1881, collapsed in 1958. The Punjab National Bank, one of India's biggest banks today, came in second[5], [6]. It was founded in Lahore in 1895. In the years between 1906 and 1911, the Swadeshi movement encouraged local businesses and politicians to build banks of and for the Indian population. Many of the banks that were created at that time are still in operation today, including the Central Bank of India, Bank of India, Corporation Bank, Indian Bank, Bank of Baroda, and Indian Bank. A significant turning point in the history of Indian banking occurred in 1934 when the "Reserve Bank of India" was established and operations began in 1935. Since that time, RBI has governed the financial sector as the nation's central bank.The Reserve Bank of India serves as the nation's central bank[7], [8].

The Reserve Bank began its activities as a private shareholder's bank before becoming the nation's central bank. The RBI took over from the Imperial Bank of India and began printing currency notes and serving as the government's banker. It was permitted for Imperial Bank of India to represent the RBI. RBI encompassed the whole of independent India. It was planned to nationalize the Reserve Bank as soon as the country gained independence in order to establish a tight convergence between Reserve Bank policies and those of the Government. The Reserve Bank started operating as a State-owned and State-controlled Central Bank on January 1, 1949. The Government of India passed the Banking Companies Act, 1949, afterwards renamed the Banking Regulation Act 1949, to simplify the operation of commercial banks. RBI serves as a banker to the government, a banker's bank, and a regulator of banks. It utilizes a number of strategies to regulate the nation's financial sector[9], [10].The Associate Banks of the State Bank of India a New Rural Credit Source.

The All-India Rural Credit Survey Committee recommended taking over the Imperial Bank of India and integrating the former state-owned or state-associate banks with it in order to create a state-partnered and state-sponsored bank to serve the economy generally and the rural sector in particular. In May 1955, Parliament approved a statute, and on July 1, 1955, the State Bank of India was established. Later, in 1959, the State Bank of India Act was enacted, giving the State Bank of India the authority to become the parent company of eight previous State-associated banks. As a result, the State Bank of India was founded with a new sense of social responsibility. State Bank of India has been providing leadership to its associate banks, which include State Bank of Hyderabad, State Bank of Mysore, State Bank of Bikaner and Jaipur, State Bank of Travancore, State Bank of Patiala, State Bank of Indore, and State Bank of Saurashtra. State Bank of India is the sole owner of two banks, the State Bank of Patiala and the State Bank of Hyderabad, and it holds the majority of the shares in other Associate Banks. Out of these affiliate banks, the State Bank of India has merged with the State Bank of Indore and the State Bank of Saurashtra, and the merger of the other five banks is in the works. By designating State Bank of India and its Associate Banks as an agent of RBI for doing business with the Central and State Governments and establishing currency chests for improved cash management in the nation, RBI gave them preferential status over other commercial banks.

Nationalization of Banks to carry out Government agendas

A significant change in the Indian banking system occurred in 1969 when 14 major commercial banks in the private sector were nationalized on July 19. The majority of these

banks, which have deposits totaling more than 50 crores, were formerly supported by businessmen.

1. One of the goals of nationalization was to expand the number of banks around the country.
2. To provide financial services to many societal groups.
3. to transform the idea of class banking into mass banking; and
4. to facilitate lending to and development in the priority sectors.

Commercial bank branches have multiplied since being nationalized, with fast branch development occurring in metro, urban, semi-urban, and rural areas. The branch network helped banks mobilize deposits, and many economic activities were launched as a result of lending to key sectors.

Rural regional banks

In addition to the financial services provided by co-operative banks and commercial banks in rural regions, a new set of institutions known as the Regional Rural Banks were established in 1975 based on the suggestions of a working group led by Shri Narasimham. The establishment of regional rural banks may be seen as a special experiment and learning opportunity for India's efforts to enhance the effectiveness of rural credit delivery mechanisms.

An attempt was made to incorporate commercial banking into the larger policy drive towards social banking, bearing in mind the local characteristics, with joint ownership by the Central Government, the relevant State Government, and the sponsoring bank. It was anticipated that RRBs would be crucial in mobilizing the savings of small and marginal farmers, craftsmen, agricultural laborers, and small business owners as well as fostering a culture of banking among the rural populace.

These organizations were also anticipated to fill the funding vacuum left by rural cooperatives and commercial banks with a strong urban focus that have deep ties to rural communities but struggle to lend loans to them.

DISCUSSION

Local Area Banks

In order to mobilize rural funds and make them accessible for investments in local regions, Local Area Banks were developed in the 1996 Union budget and operate in two or three adjacent districts.

In rural and semi-urban regions, they are anticipated to close credit availability gaps and strengthen the institutional credit framework. These banks are permitted to carry out all duties associated with a scheduled commercial bank, despite the fact that their geographic operating region is restricted. These neighborhood banks were intended to be private, well-run, deposit-taking small-finance institutions by the Raghuram Rajan Committee.

To counter the possibility of increased risk due to being geographically confined, they were to have stronger capital adequacy criteria, a tight restriction on related party transactions, and lower concentration rules.

RBI issued licenses to six organizations to run LABs, although only four of them are now operational.As of March 31, 2012, Capital Local Area Bank, one of these four banks, accounted for more than 70% of the combined assets of the other three LABs.

New Banks in the Private Sector

The Narasimham committee proposed in 1991 that banks should improve their operational effectiveness, tighten their regulatory oversight, and permit new participants to foster competition. The suggestions were followed, and new private banks were permitted to open.

Bank Organization in India

Based on certain criteria, banks may be divided into scheduled and non-scheduled banks.

Planned Banks

The banks in India that are included in the Second Schedule of the Reserve Bank of India Act of 1934 are referred to as Scheduled Banks. Compared to non-scheduled banks, the scheduled banks are entitled to a number of benefits. The Reserve Bank of India may provide refinancing facilities to Scheduled Banks. Additionally, they are eligible for currency chest facilities. They have the right to join the Clearing House. If they meet the requirements outlined by RBI, cooperative banks may also join the list of scheduled banks in addition to commercial banks. Number of Scheduled Commercial Bank branches as of March 31, 2013.

Unauthorized Banks

These are the banks that are not included in the Reserve Bank of India's Second Schedule. Non-scheduled banks are typically defined as those that do not adhere to Reserve Bank of India standards within the meaning of the RBI Act, according to specific functions, etc., or in the Reserve Bank's opinion, are not capable of serving and protecting the interests of depositors.

Business banks

1. Governmental Banks

By definition, "public sector banks" refer to institutions where the government owns a majority or all of the stock. There were just 8 Public Sector Banks up to July 1969. The Indian government owned all 14 commercial banks at the time of their nationalization in 1969. In 1980, six further private banks were nationalized. However, as time and the climate evolved, these banks were permitted to raise money via initial public offerings (IPOs), which transformed the shareholding structure. By default, the Government of India would retain at least 51% of the shares, and the Central Government alone would have managerial authority over these nationalized banks. All of these banks may be categorized as public sector banks since the Central Government owns them all. The State Bank of India, its affiliated banks, IDBI Bank, and Regional Rural Banks are also categorized as Public Sector Banks in addition to the Nationalized Banks. As of March 2013, there were 82 public sector banks overall, divided into the following categories:

2. Public Sector Banks

Individuals and corporations make up the majority of the stakeholders in private sector banks. All banks were not included when banks were nationalized in two tranches. Old Generation Private Sector Banks are those non-nationalized banks that are still in existence today. such as The Federal Bank, The Laxmi Vilas Bank, The Jammu & Kashmir Bank Ltd., etc. The Reserve Bank of India permitted several new banks to begin operating in July 1993 as a result of changes to the banking industry. Leading banks like UTI Bank, ICICI Bank, HDFC Bank, Kotak Mahindra Bank, Yes Bank, and others that were granted licenses are known as New Generation Private Sector Banks. On the basis of the directives given in January 1993, ten

banks received licenses. On the basis of the knowledge obtained through the operation of these banks, the rules were updated in January 2001, and new applications were welcomed.Four banks eventually merged with other lenders out of the 10 licenses granted in 1993. While Global Trust Bank merged with the government-owned Oriental Bank of Commerce, Times Bank merged with HDFC Bank. Bank of Punjab was acquired by Centurion Bank, which then merged with HDFC Bank to become Centurion Bank of Punjab. A new climate of competition in the Indian banking system was established as a result of these new generation private sector banks. These banks had a competitive advantage over their rivals in terms of their IT support infrastructure, cutting-edge goods, and product pricing. Private sector banks are now more prevalent than ever, providing a wide range of novel services to the public sector banks' clientele, and presenting a serious threat to them. There were 22 private sector banks overall as of March 31, 2013. In addition to this, four Local Area Banks fall under the category of private banks.

3. Overseas Banks

Foreign banks make up the other significant portion of the commercial banking industry. Foreign banks do business in India via their branches even if their registered headquarters are located outside of India. Foreign banks are accepted with reciprocity. They may do business via subsidiaries or branches that are fully owned by them. These international banks engage in extensive corporate banking, trade finance, and Treasury operations. Through their branches outside of India or through overseas correspondents, these banks help their customers raise external commercial borrowings. They also participate in loan syndication. The rules and regulations of Indian regulators such the Reserve Bank of India, the Insurance and Regulatory Development Authority, and the Securities Exchange Board of India must also be followed by foreign banks in addition to all local laws. Foreign banks must abide by the Reserve Bank of India's regulations on Priority Sector Lending, Capital Adequacy Ratio, and other standards. As of March 31, 2013, there were 43 foreign banks overall with 331 branches. In addition to these, as of March 31, 2013, 46 international banks have representative offices in India.

System of cooperative banking

In the Indian financial system, cooperative banks are crucial, particularly at the rural level. The passage of the Act of 1904 marked the beginning of the Cooperative Movement's expansion. A cooperative bank is a cooperative society that has been registered under a State or Central Act or is presumed to have been registered. The Central Cooperative Societies Act is relevant if a cooperative bank operates in many States. In other situations, state laws apply. The provisions of the RBIAct, 1934 and the BRAct, 1949 will also be applicable for regulating the banking operations in addition to numerous other laws like the Banking Laws Act, 1965 and Banking Regulation and Miscellaneous Provisions Act, 2004.These cooperative banks serve the requirements of small and medium-sized businesses, independent contractors, and farmers in urban, suburban, and rural locations. The shareholders of co-operative banks should be members of the co-operative banks.

A co-operative bank's share connection to borrowing is one of its distinguishing characteristics.

The Indian rural cooperative sector is essential in meeting the credit needs of the country's rural agriculture sector. In recent years, the supply of rural credit via the rural cooperative sector has significantly increased to keep up with the expanding demand for credit in India's rural areas. The following forms of rural cooperative credit structures exist in our nation:

1. Institutions providing agricultural short-term credit

The foundation level of the short-term credit system is made up of Primary Agricultural Credit Societies, which are connected to District Central Cooperative Banks at the district level and to State Cooperative Banks at the state level. Being federal organizations, the DCCB and SCB both have affiliated DCCBs as members, while all connected PACS and other functional societies are members of the DCCB.The DCCB is functionally positioned to address the issues of both the top and lower levels since it is the intermediate layer of the cooperative credit structure. This often forces the DCCB to strike a balance between conflicting interests. The PACs may have their own requirements for the DCCB, even while the SCB governing District Central Cooperative may intend for it to prioritize its work in a certain way. The DCCBs may often have a challenge in balancing these conflicting interests.As of March 2013, there were 13478 branches operated by 372 District Central Cooperative Banks in India under the direction of these banks. More over 35 lakh farmers are receiving financing from these DCCBs via around 1.15 lac Primary Agricultural Cooperative Societies.

2. Institutions for Long-Term Agricultural Credit

The State Cooperative Agriculture & Rural Development Banks and Primary Cooperative Agriculture & Rural Development Banks, which are connected to the SCARDBs, make up the long-term cooperative lending system. SCARDBs total 19, with 10 having a federal structure, 7 having a unitary structure, and 2 having a mixed structure. Members are given loans on the mortgages of their land, typically up to 50% of their value in some states or up to 30 times the land revenue payable in other states, while being properly weighed against their need and repayment capacity. As of March 31, 2012, these banks' performance was as follows:

3. Bank cooperatives in cities

Although not technically defined, the phrase "Urban Cooperative Banks" refers to the major cooperative banks found in metropolitan and semi-urban regions. Up until 1996, these banks were only permitted to lend money for non-agricultural uses. This difference still exists today. These banks have a history of operating in and around communities, essentially helping locals arrange loans to individuals and small enterprises. Their current operational range has significantly increased. Multistate cooperative banks are urban cooperative banks that have the ability to expand their operations to other States. The Banking Regulations Act of 1949 and the Banking Laws Act of 1965 are in charge of them. 1 618 UCBs were present overall as of March 31, 2012. Banks that have paid-up capital and reserves of at least '5 lacs and conduct their business in the interest of depositors to the satisfaction of the Reserve Bank are considered scheduled UCBs and are listed in the Second Schedule of the RBI Act, 1934.

Construction Banks

The Industrial Finance Corporation of India was founded in 1948, which is when development banking in India began. Several SFCs were subsequently created after the State Financial Corporation Act of 1951 was passed. The field of development banking has seen several changes as a result of the advent of financial sector reforms. At the central and state levels, there are more than 60 development banking institutions. Here, we're going to talk about the four main development banks that help with long-term lending and re-financing to various sectors of the economy for the growth of the small- and medium-sized business, agricultural, and housing industries. These financial institutions play a significant role in aiding several sectors, especially the growth of the rural economy.

Agricultural and Rural Development National Bank

Based on CRAFICARD's suggestions, the National Bank for Agriculture and Rural Development was founded by an Act of Parliament in July 1982. It is the top entity in charge of developing, implementing, and regulating policies related to agriculture and other rural economic activity. Over the years, NABARD has created a number of refinancing and promotional schemes and has worked tirelessly to liberalize, broaden, and improve/rationalize the schemes in response to demands at the field level. NABARD's refinancing program aims to accomplish two main things:

Increasing the cooperative banks' and RRBs' capacity to provide credit to their customers while simultaneously ensuring the development of a solid, efficient, viable, and efficient cooperative credit system. NABARD engages in a range of interconnected activities and provides services that fall into three major areas.

Credit Disbursement

Each year, NABARD creates a possible linked credit plan for each district, which serves as the foundation for district credit plans. At the block, district, and state levels, it takes part in the creation of the Annual Action Plan and oversees the execution of credit strategies at those levels. Additionally, it offers suggestions for improving the credit discipline that credit institutions should adhere to while funding the production, marketing, and investment activities of rural agricultural and non-farm sectors.

Promotional & Developmental

NABARD's developmental responsibilities may be roughly categorized as follows:

Rural financial institutions like SCBs/SCARDBs, CCBs, RRBs, etc. are being nurtured and strengthened via a variety of institutional strengthening measures. promoting the expansion of the SHG Bank connection program and providing crucial assistance to the client banks, NGOs, VAs, and development organizations of SHPI. Promotional efforts in the agricultural and non-agricultural sectors. Providing aid for research and development. acting as a catalyst for rural development and agriculture in remote regions.

Oversight Activity

As the country's top development bank, NABARD collaborates on a few regulatory duties involving cooperative banks and RRBs with the Central Bank of the nation.

Indian Small Industries Development Bank

The Small Industries Development Bank of India was founded in October 1989 and started operating in April 1990 with its headquarters in Lucknow. It serves as the primary and only financial institution for the development of the micro, small, and medium-sized enterprise sector as well as for coordinating the operations of other institutions involved in related activities. It is a project of the federal government. SIDBI's main goal is to assist MSMEs by giving them access to the crucial resource of production financing. Small business owners may get both long- and short-term financing from a variety of organizations and commercial banks. SIDBI organizes their collective efforts.SIDBI has developed a method for examining the issues MSMEs confront and developing specialized solutions. As of January 31, 2013, it has relationships with industry groups at the cluster level and a pan-India network of 85 branches, 50 Credit Advisory Centers, and around 600 MSME clusters serviced. About 1 million people have received coverage under the innovative CGTMSE credit guarantee for

Micro and Small Enterprises initiative, which offers guarantee covers for loans totaling more than '48,000 crore.

Functions of the Indian Small Industries Development Bank

The range of SIDBI's promotional and development activities has grown over time to include a number of new initiatives. In order to improve the overall performance of the small-scale sector, it carries out a number of tasks in partnership with nonprofit organizations, non-governmental organizations, consulting businesses, and international organizations. Following is a discussion of SIDBI's key responsibilities:initiates measure for the adoption, exchange, transfer, upgrading, and modernization of current units' technology. SIDBI engages in soft-term equity loans, term loans, working capital in both rupees and other currencies, venture capital assistance, and other resource support programs for banks and other organizations. In cooperation with commercial banks, SIDBI supports the timely flow of credit to MSMEs for both term loans and working capital. SIDBI expands MSMEs' product marketing skills in both local and foreign markets. To promote the use of bills and aid SSI units in realizing the revenues from the sale of capital goods, equipment, and other items, SIDB1 directly discounts and rediscounts bills. SIDBI encourages job-oriented companies, particularly in semi-urban regions, to expand employment prospects and slow the flow of people from rural to urban areas.

Bank for National Housing

With the mission to support effective, sustainable, and sound Housing Finance Companies, the National Housing Bank was established in July of 1988 as the leading financing organization for the housing industry. Its objectives are to regulate HFCs and increase the flow of institutional credit to the housing industry. NHB mobilizes resources and directs them toward different plans for building housing infrastructure. It offers refinancing for direct mortgage loans made to homeowners by commercial banks and other financial organizations. The NHB also offers refinancing to housing finance institutions, government organizations working on housing and shelter projects, main cooperative housing societies, and real estate investors. Currently, the Reserve Bank of India, which provided the whole of the paid-up capital, has a 100% stake in the company. To minimize ownership and regulatory conflicts, the RBI has suggested giving the Government of India control of its whole shareholding. The central bank shall transmit to the RBI money equivalent to the face value of the subscribed capital that was issued by the RBI. At 33,083 crores as of December 31, 2012, the outstanding portfolio of NHB was split nearly evenly between commercial banks and HFCs.

Indian Export-Import Bank

In order to finance, facilitate, and promote India's international commerce, the Export-Import Bank of India was established in 1982 by an act of the Indian Parliament. It serves as the nation's main financial institution for coordinating the operations of organizations that finance exports and imports. The Indian government owns all of Exim Bank; the bank's authorized and paid-up capital are 10,000 and 2,300 crores, respectively.The extension of Lines of Credit to international organizations, national governments, regional financial institutions, and commercial banks is a focus area for Exim Bank. To support and promote a nation's exports, Exim Bank also lends financing to suppliers and buyers. The Bank also offers term loans in Indian rupees or foreign currencies to export-oriented Indian companies for the construction of new production facilities, the expansion, modernization, or upgrading of existing facilities, and the purchase of production machinery or technology. Exim Bank supports Indian businesses in their efforts to go global by providing a wide range of goods and services at every stage of the business cycle, from technology import to export product

development to export production to export marketing to pre- and post-shipment services to overseas investment. The Bank has launched a brand-new loan initiative to support the R&D efforts of businesses with an export focus. Exim Bank offers term loans for up to 80% of the cost of research and development. The Bank has established an Export Marketing Services Program to help with the development and improvement of Indian firms' export capacities and global competitiveness. Through EMS, the Bank actively helps businesses find potential business partners and streamlines the placing of final orders. The Bank offers support under EMS in locating chances for establishing projects, factories, or for buying enterprises abroad. A success fee is charged for the service. Exim Bank complements its lending programs with a comprehensive variety of added-value information, advisory, and support services that provide exporters the ability to assess global risks, take advantage of export opportunities, and boost competitiveness, supporting their attempts to go global.

CONCLUSION

In conclusion, Governments may find it effective to nationalize banks in order to foster inclusive development and align the financial sector with their policy goals. However, a well-rounded strategy is required, with a focus on open governance, independent regulation, and cautious management.

Governments may foster an environment that is favorable for long-term economic growth and social welfare by learning from the mistakes of the past and using the advantages of nationalized banks wisely. However, effective administration and governance are essential to nationalization's success. The performance of nationalized banks may be hampered by inefficiencies, bureaucratic intervention, and political concerns, which might result in less-than-ideal results and put a strain on public funds.

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CHAPTER 2

REGULATORY FRAMEWORK AND COMPLIANCES OF BANK

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ABSTRACT:

The regulatory framework and compliances of banks are essential components of the financial system, ensuring stability, accountability, and consumer protection. This paper examines the significance of regulatory measures in the banking sector and analyzes the various compliance requirements that banks must adhere to. By exploring case studies and relevant literature, the study highlights the role of regulatory bodies, the challenges faced by banks in meeting compliance standards, and the consequences of non-compliance. The findings offer insights into the critical role of a robust regulatory framework in maintaining trust in the banking system and fostering sustainable economic growth.This study underscores the essential role played by regulatory bodies in overseeing banks' operations, risk management practices, and consumer protection mechanisms. An efficient regulatory environment ensures that banks operate with prudence, minimizing the likelihood of financial crises and protecting the interests of depositors and investors.

KEYWORDS:

Capital, Compliance Officer, Consumer Protection, Credit Risk Management, Financial Reporting, Foreign.

INTRODUCTION

Reserve Bank of India Act, 1934

The Reserve Bank of India was established by the Reserve Bank of India Act, 1934, with the goal of regulating the issuance of bank notes for the purpose of maintaining reserves to preserve monetary system stability and enable efficient operation of the country's currency and credit system[1], [2].The Reserve Bank of India's constitutional responsibilities and duties are covered under the RBI Act. With the exception of a few sections, such as Sec. 42, which deals with banks' maintenance of CRR, and Sec. 18, which addresses the direct discount of bills of exchange and promissory notes as part of rediscounting facilities to control credit to the banking system, the act does not directly address the regulation of the banking system.The RBI Act covers the following topics: the RBI's incorporation, capital, management, and operations. the duties of the RBI, including those related to issuing bank notes, maintaining monetary stability, serving as banker to the federal and state governments, banks, and other financial institutions, general provisions for reserve funds, credit funds, audits, and accounts providing guidance and enforcing penalties for Act violations[3], [4].

1949 Banking Regulation Act

One of the key legislative frameworks is the 1949 Banking Regulation Act. The Act was first approved as the Banking Companies Act of 1949 before being renamed the Banking Regulation Act of 1949. The Banking Regulation Act of 1949 offers banks several regulations covering a broad variety of topics, together with the Reserve Bank of India Act of 1935. Here is a summary of some of the key clauses of the Banking Regulation Act of 1949.

According to Section 5, the definition of banking is "accepting public money deposits for the purpose of lending and/or investment." Such deposits may be withdrawable through check, draft, order, or another method and repayable upon demand. A banking firm is defined in Section 5 as any business engaged in the banking industry[5], [6]. Sec. 5 makes a distinction between time obligations, which are not demand liabilities, and demand liabilities, which are liabilities repayable on demand. The definition of secured loans or advances is covered in Section 5. When a loan or advance is secured by an asset as security, the market value of that asset is never less than the sum of the loan or advance. A loan or advance that is not secured is known as an unsecured loan. The definition of banking business is covered in Section 6. Banking Regulation Act, which via a number of s controls or forbids certain actions for a bank, states that banking firms conducting business in India shall use at least on word bank, banking, or banking company in its name.

New Bank Branch Openings and Licenses

There are many different types of banks in India, and they were established in accordance with various Acts that the Central and State Governments passed, as follows: All of the aforementioned types of banks are obligated to abide by the relevant provisions of the RBI Act and Banking Regulation Act in addition to the provisions of the specific Act under which the said bank was incorporated[7], [8].

Establishment of a New Bank

According to the BR Act and RBI Act, the Reserve Bank of India has the authority to grant new banks licenses to operate as banks and to sometimes create new branches. To establish a banking operation in India, a firm or other organization is required under the Banking RegulationAct.1949 to get a license from the Reserve Bank of India. In addition to obtaining the necessary licenses, establishing and moving branches are subject to the Branch Authorization Policy periodically announced by the RBI.The license and authorization would each be granted by the Reserve Bank of India under certain terms and circumstances[9], [10]. In accordance with Section 35 of the Banking Regulation Act, the Reserve Bank of India is free to take the inspection report's conclusions into account while deciding whether to grant a license. Before awarding a license according to Section 22, Reserve Bank may be required to ascertain via an examination of the banking company's records that the following conditions are met:

1. The company's ability to pay its current and prospective depositors in full when their claims become due.
2. Whether the company's affairs are being or are likely to be handled in a way that is harmful to the interests of its current and potential depositors.
3. The company's financial structure and future earnings expectations.
4. Will the company's license be granted in the public interest?
5. Additional concerns about branch growth, unbanked areas, and other problems.

In the case of foreign banks, the Reserve Bank of India (RBI) would only accept an application for a license to create a bank or branch in India if the applicant met the following requirements in addition to those that applied to domestic banks: whether the company's conduct of banking business in India will be in the public interest; whether the government or the law of the nation in which the company is incorporated discriminates against banking companies registered in India; and whether the company complies with BR Act provisions that are applicable to foreign companies. The Reserve Bank of India may impose a greater capital requirement when granting a firm, a license under section 11 of the Banking Regulation Act, which sets down the minimum capital and reserve requirements of a banking

company. According to the Banking Regulation Act of 1949, the Reserve Bank of India has the authority to revoke the licenses issued to any banking business for one or more of the following reasons: The corporation stops doing banking operations in India the organization doesn't adhere to any of the requirements set out in the Banking Regulation Act's particular sections.The corporation must be given the chance to take the required actions to comply with or fulfill the requirements before a license is cancelled for failure to comply with any of them. However, if the Reserve Bank believes that a delay would harm the interests of depositors or the general public, the Reserve Bank may act appropriately. Within 30 days of the date of the order of cancellation, a banking business that has had its license revoked may file an appeal with the Central Government.

Licenses for Branches

The regulations of Section 23 of the Banking Regulation Act of 1949 regulate bank branch openings. Banks cannot comply with these regulations without the Reserve Bank of India's prior consent. Start a new company in India or overseas cannot move or modify the site of the current place of business, except within the same city, town, or villageBanks must periodically refer to the Reserve Bank's requirements for branch licensing, including any changes to the premises or the relocation of branches. The National Bank for Agriculture and Rural Development must receive applications for authorization from Regional Rural Banks; the RBI will take appropriate action in response to NABARD's recommendations. The following describes the commercial banks' branch authorization policy as of July 1st, 2013: Branch Authorization Policy for Commercial Banks

A "branch" is a full-fledged branch, which includes a specialized branch, a satellite or mobile office, an Extension Counter, an off-site ATM, an administrative office, controlling office, a service branch, and a credit card center, for the purposes of the branch authorization policy. Call centers won't be regarded as branches. In Tier 2 to Tier 6 centers as well as in rural, semi-urban, and urban centers in the North Eastern States and Sikkim, domestic scheduled commercial banks are allowed to open branches, administrative offices, central processing centers, and service branches without obtaining permission from the Reserve Bank of India in each case, subject to reporting. The general license given for operationalizing mobile branches in Tier 3 to Tier 6 centers has not been extended to the operationalization of mobile branches in Tier 2 centers since the idea of mobile branches was first proposed for rural regions.

Domestic scheduled commercial banks are allowed to establish offices performing only administrative and controlling tasks in Tier 1 Centers without the need to acquire prior approval in each instance, subject to reporting, in order to further increase the operational flexibility of banks. Except in the case of North Eastern States and Sikkim, where the general permission would cover Tier-1 centers as well, opening branches, Central Processing Centers, or Service branches by domestic scheduled commercial banks in Tier 1 centers will continue to require prior permission from the Reserve Bank of India.Domestic Scheduled Commercial Banks shall designate at least 25% of the total number of branches scheduled to be established during a year in unbanked rural areas when developing their Annual Branch Expansion Plan. A rural area that lacks a physical location of any scheduled commercial bank for customer-based banking transactions is referred to as an unbanked rural area.

It would no longer be mandatory to open at least one third of the total number of branches proposed to be opened in Tier 2 to Tier 6 centers in underbanked districts of underbanked States, given the requirement for opening at least 25% of the branches under ABEP in unbanked rural centers. However, banks would be given incentives for building such

branches since there is a continual need to open new branches in underbanked areas of underbanked States in order to ensure more uniform geographic distribution. As a result, permission will be granted for the opening of a branch in a Tier 1 center for each branch proposed to be opened in Tier 2 to Tier 6 centers of underbanked districts of underbanked States, excluding those rural branches proposed to be opened in unbanked rural centers that may be located in the underbanked districts of underbanked States in compliance with the requirement as indicated in subparagraph. In addition to the authorization granted for branches in Tier 1 centers based on the aforementioned factors, this will be done. The building of branches in rural areas with low bank penetration may be front-loaded by banks during a three-year cycle that coincides with their financial inclusion plan. Credit will be awarded for the branches established in rural areas with no banks that are more than the requisite 25 percent of the ABEP for the year, and these branches will be carried over to help meet the Financial Inclusion Plan's requirements in the next ABEP/year.

DISCUSSION

New Bank Licensing Policy, 2013

Twelve private sector banks received licenses from the Reserve Bank of India during the last two decades. There were two stages to this. On the basis of the directives given in January 1993, ten banks received licenses. On the basis of the knowledge obtained through the operation of these banks, the rules were updated in January 2001, and new applications were welcomed. Two further licenses were granted to two organizations, namely Kotak Mahindra Bank and Yes Bank, after the applications that were submitted in response to this call were reviewed by a High-Level Advisory Committee that the RBI had established. When creating these guidelines, the Reserve Bank took into consideration the suggestions of the Narasimham Committee, the Raghuram Rajan Committee, and other opinions, seeing the necessity for an express policy on the banking system in India.

Rules and significant elements

Potential Promoters

Promoting a bank via a wholly-owned Non-Operative Financial Holding Company is open to entities/groups in the public sector and the private sector that are "owned and controlled by residents." Promoters/Promoter Groups may apply for a bank license if they already own a non-banking financial enterprise.

Fit and proper standards

To be qualified to promote banks through a completely owned NOFHC, Promoters/Promoter Groups must be "fit and proper." The following factors would be used by RBI to determine if candidates were "fit and proper." Promoters and Promoter Groups need to have a history of having respectable credentials and honesty. Promoters/Promoter Groups must to be financially stable and have a history of operating their companies successfully for at least ten years. RBI may, among other things, ask enforcement and investigative organizations like the Income Tax, CBI, Enforcement Directorate, etc. for their opinions on applicant Groups about these or any other pertinent factors.

The NOFHC Promoter/Promoter Group's corporate structure will only be allowed to establish a bank via a fully owned Non-Operative Financial Holding Company. The bank and any other Group financial services firms that are subject to RBI or other financial sector regulations should be held by the NOFHC. Shares in the NOFHC may only be held by non-financial services firms/entities, non-operative financial holding companies within the Group, and

persons associated with the Promoter Group. The NOFHC cannot have shareholders who are financial services companies whose shares are owned by the NOFHC. The basic rule is that no financial services business owned by the NOFHC would be authorized to participate in any departmentally approved activities for banks. In this case, it should be prohibited for at least three years from the NOFHC's official business launch date for it to establish any new financial services entities. This would not, however, prevent the bank from establishing a subsidiary, joint venture, or affiliate if it is required by law or expressly authorized by RBI.

The NOFHC will only apply to regulated financial sector organizations when a Promoter Group has substantial influence or control. Only via the NOFHC shall the Promoter/Promoter Group businesses or persons have equity investments in the bank and other financial institutions owned by the Promoter Group.

Transferring NOFHC shares to organizations outside the Promoter Group is not advised. Any change in the NOFHC's ownership that would result in a shareholder acquiring 5% or more of the voting equity capital of the NOFHC would need RBI's prior approval. Banks' minimum voting equity capital requirements and NOFHC's ownership of shares A bank should have a minimum of $5 billion in paid-up voting equity capital at the outset. Any further voting equity capital that is raised will depend on the Promoters' business strategy. A minimum of 40% of the bank's paid-up voting equity capital must be held by the NOFHC, and this ownership must be guaranteed for five years after the bank's official opening.

Within three years of the bank's opening, NOFHC's ownership stake, which now stands at more than 40% of the bank's total paid-up voting equity capital, must be reduced to 40%. by ten years of the bank's operations starting, NOFHC's ownership shall be reduced to twenty percent (20%), and by twelve years to fifteen percent (15%) of the bank's paid-up voting equity capital. The NOFHC shall adhere to the capital requirements established by the relevant sectoral authorities for the regulated financial services businesses it holds. For a minimum of three years from the start of its operations, the bank shall be obliged to maintain a minimum capital adequacy ratio of 13% of its risk-weighted assets, subject to any higher percentage that may be prescribed by RBI from time to time. The NOFHC and the entities it holds shall keep their combined capital adequacy at a minimum of 13% of their combined RWA for a minimum of three years. Within three years of the bank's opening for operation, the bank must list its shares on stock markets.

Regulatory structure

The NOFHC would be controlled by its own set of guidelines after being registered with the RBI as a non-banking financial business. The applicable statutes and rules established by the relevant financial sector authorities will apply to the financial firms controlled by the NOFHC.

Foreign ownership of the bank's shares

The combined non-resident shareholding from FDI, NRIs, and FIIs in the new private sector banks should not exceed 49% of the paid-up voting equity capital for the first five years from the date of the licensing of the bank, where foreign shareholding in private sector banks is permitted up to a ceiling of 74% of the paid-up voting equity capital. For a period of five years following the start of the bank's operations, no non-resident shareholder, directly or indirectly, individually or collectively, or through subsidiary, associate, or joint venture, shall be permitted to hold five percent or more of the paid-up voting equity capital of the bank. After five years have passed since the bank's business operations began, the total foreign ownership will be determined by the current FDI policy.

Corporate management at NOFHC

The NOFHC must abide by the corporate governance rules that the RBI periodically issues.

Norms of Prudence for the NOFHC

The prudential standards will be applied to NOFHC both separately and collectively. The following are some of the main prudential standards:

NOFHC on an independent basis

1. Prudent standards for grouping, valuing, and managing an investment portfolio.
2. Prudent practices for the recognition of income, classifying assets, and allocating provisions for advances.
3. The NOFHC may invest in bank deposits, money market instruments, government securities, as well as actively traded bonds and debentures for the purpose of managing its liquidity.
4. The NOFHC has to keep a careful eye on its interest rate risk and liquidity situation. A structural liquidity statement and interest rate sensitivity statement should be created by the NOFHC for this purpose.
5. The NOFHC may have a leverage ratio of up to 1.25 times its free and paid-up equity capital. The actual leverage estimated within this ceiling should be determined by the NOFHC's capacity to repay its debts from dividend income.

On a combined basis, NOFHC

Based on the prudential guidelines on Capital Adequacy and Market Discipline - New Capital Adequacy Framework issued under Basel II framework and Guidelines on Implementation of Basel III Capital Regulations in India, when implemented, NOFHC should maintain capital adequacy and other requirements on a consolidated basis.

According to Basel III Capital Regulations, Guidelines for Consolidated Accounting, other quantitative techniques, and the Scope of Prudential Consolidation, the NOFHC shall produce consolidated financial statements and other consolidated prudential reports. The guidelines for disclosure in the Financial Statements - Notes to Accounts should be followed by the consolidated NOFHC.

A structural liquidity statement and an interest rate sensitivity statement should be prepared by the consolidated NOFHC.

Bank business strategy

It will be necessary for applicants for new bank licenses to submit their business plans for the banks together with their applications. The business plan must include the bank's proposed strategy for achieving financial inclusion. The candidate should have a reasonable and workable business strategy. After the license has been issued, if the stated business strategy is not followed, RBI may think about limiting the bank's growth, changing the management, and enacting such punitive actions as may be required.

Additional requirements for the bank

A majority of the bank's directors should be independent. Any purchase of shares that would increase a person's, entity's, or group's overall ownership to the equivalent of 5% or more of the bank's paid-up voting equity capital would need RBI permission in advance. Other than the NOFHC, no one entity or group of linked entities may own more than 10% of the bank's paid-up voting equity capital or exercise direct or indirect control over more than 10% of it.

The bank must adhere to the lending objectives and sub-targets for priority sectors that apply to the current domestic banks.

The bank should start developing its portfolio of lending to priority sectors as soon as it begins operations for this purpose. To prevent over-concentration of their branches in metropolitan regions and cities that already have a sufficient banking presence, the bank should establish at least 25% of its branches in unbanked rural centers. The bank should use Core Banking Solutions from the start, together with all current technological advancements. To address consumer complaints, the bank needs a powerful consumer Grievances Cell.

CONCLUSION

In conclusion, A strong and stable financial system is built on the indispensable pillars of the regulatory environment and bank compliance.

When carefully crafted, strict laws serve to safeguard the interests of all parties involved and promote long-term economic development. Compliance must be seen by banks as a chance to improve their governance procedures, risk management, and general effectiveness rather than only as a regulatory burden. Banks may contribute to economic growth by investing in compliance and supporting stability in the financial industry.

The research also emphasizes the necessity for a flexible regulatory strategy that can change with the financial environment and respond to new hazards. In order to create successful laws that balance innovation and risk management, cooperation between regulators, banks, and other stakeholders is essential.

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CHAPTER 3

CONSTITUTION OF BANKS BOARD OF DIRECTORS AND THEIR RIGHTS

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ABSTRACT:

The constitution of banks' board of directors and their rights plays a crucial role in shaping the strategic direction and governance of financial institutions. This paper examines the significance of a well-structured board of directors, the composition of boards in the banking sector, and the rights vested in directors. By analyzing relevant literature and case studies, this study sheds light on the importance of diverse and competent boards in ensuring effective oversight, risk management, and sustainable performance of banks. The findings provide valuable insights into the best practices for constituting boards and the rights directors possess in carrying out their fiduciary duties.A well-structured board, comprising diverse and experienced individuals, brings a range of perspectives and expertise to the decision-making process. This diversity fosters sound governance, reduces the risk of groupthink, and enhances the board's ability to address complex challenges faced by banks.

KEYWORDS:

Board of Directors, Branch Network, Capital Structure, Corporate Governance, Credit Committee, Executive Management.

INTRODUCTION

According to the pertinent sections of the Banking Regulation Act, at least 51 percent of the total number of directors must be individuals with specialized knowledge or relevant experience in the fields of accounting, agricultural and rural economy, banking, economics, finance, law, etc. The banking firm would benefit from the diverse exposure and expertise of the various directors. The bank's board shouldn't have a large stake in the business[1], [2]. According to the Banking Regulation Act's rules, a "substantial interest" is defined as a total ownership of the aforementioned banking firm by an individual, his or her spouse, or their minor child that does not exceed Rs. 5 lakhs (10% of the bank's paid-up capital). A banking company's directors should not serve for a continuous period of more than eight years. According to the BR Act's guidelines, the bank's board of directors is established[3], [4].

Shareholders' Rights Regarding Banks

According to the Banking Regulation Act, a shareholder may own an unlimited number of shares in a banking firm. No shareholder may exercise voting rights in respect of shares owned by him or her that represent more than 10% of the total voting rights of all the shareholders of the banking company, even if there is no limit on the number of shares that may be held. However, the transfer of shares or the registration of such share transfers are unaffected in any manner by this rule.The Reserve Bank of India has instructed banking firms to notify the Reserve Bank anytime they transfer more shares to a single shareholder or party than the allowed proportion[5], [6]. The Board of the Bank is not permitted to transfer such shares to a shareholder or other party without the Reserve Bank's approval or instructions. This prevents the controlling stake in a banking corporation from changing without the Reserve Bank's knowledge and consent.

Other Concerns

The CEO, Chairman, Managing Director, and other senior officials of the bank must provide the Reserve Bank of India with their contact information, per their instructions. Additionally, facts on the direct or indirect ownership of the shares as well as other pertinent information should be provided. The Banking Regulation Act and the Reserve Bank of India's guidelines must be followed by banks when it comes to paying dividends to shareholders. According to Reserve Bank guidelines, banks should take into account NPA levels and other relevant conditions when issuing dividends[7], [8].

Statutory Liquidity and The Cash Reserve Ratio

Ratio of Cash Reserves

The minimum amount of reserves required by the Reserve Bank of India is known as the cash reserve ratio. According to Section 42 of the Reserve Bank of India Act, every scheduled bank is obliged to periodically maintain a specific proportion of its demand and time obligations with the Reserve Bank of India as cash reserves. Regarding CRR, there is no maximum ceiling rate or minimum floor rate. According to Section 18 of the Banking Regulation Act, non-scheduled banks must keep a cash reserve[9], [10].

DTL computation

A bank's obligations might take the shape of time or demand deposits, borrowings, or other unrelated liabilities. Liabilities of a bank may be towards the banking system or towards others in the form of demand and time deposits, borrowings, or other varying categories of liabilities, as specified under section 42 of the RBI Act, 1934.

Demand Obligations

A bank's demand liabilities are obligations that must be paid immediately. Among the crucial components are: existing deposits a percentage of savings bank deposits that are demand liabilities Margin retained against guarantees/letters of credit and unpaid fixed deposit sums Cash certificates and ongoing, accumulative deposits outstanding Demand Drafts, Mail Transfers, and Telegraphic Transfers unclaimed funds deposits retained as security for loans that are repayable on demand as well as credit balances in the Cash Credit account.Outside of the banking system, money on call and at short notice should be free of obligations to other parties.

Time Obligations

Time Liabilities are those debts that a bank has that aren't due right now. These include gold deposits, cumulative and recurring deposits, the percentage of savings bank deposits related to time obligations, employee security deposits, margin held against letters of credit that is not demand-payable, deposits held as security for loans that are not demand-payable, and deposits held against staff security.

Interest accrued on deposits, payable bills, unpaid dividends, suspense account balances representing sums owed to other banks or the general public, net credit balances in branch adjustment accounts, and any sums owed to the banking system that are not in the nature of deposits or borrowing are all examples of other demand and time liabilities (ODTL). These obligations may develop as a result of things like collecting debts for other banks, paying interest to other banks, and so forth. The full ODTL may be against item II, "Other Demand and Time Liabilities," of the return in Form "A" and the average CRR kept on it by all SCBs if a bank is unable to separate the obligations to the banking system from the sum of

ODTL.Because they are in the nature of "outside liabilities," cash collaterals obtained through collateralized derivative transactions should be included in the bank's DTL/NDTL for reserve requirement purposes.

The banking system's assets

Assets held by the banking system include current account balances with banks, balances in other accounts with banks and alerted financial institutions, funds made available to the banking system in the form of loans or deposits repayable at call or short notice of a fortnight or less, and loans other than money made available to the banking system at call and short notice. Any additional payments owed to the banking system that do not fit into one of the categories listed above should also be included as assets with the banking system.

Foreign loans and borrowings made by Indian banks are regarded as "liabilities to others" and are thus subject to reserve requirements. Correspondent Bank Agreements for Remittance Facilities When a bank takes money from a customer via its remittance facilities program, the money shows up on its records as a liability. Liability to others in India should be used, and this should also be taken into consideration when computing DTL for CRR/SLR purposes.Liabilities not to be included in the calculation of DTL/NDTL.

For the purposes of CRR and SLR, the following things will not be considered liabilities:Paid-up capital, reserves, any credit balance in the bank's profit and loss account, amount of any loan from the RBI, and amount of refinancing from Exim Bank, NHB, NABARD, and SIDBI.Amount received from the DICGC for claims and kept by the banks until they are adjusted Amount obtained from the ECGC after relying on the guarantee Amount obtained from the insurance provider as part of an ad hoc settlement of claims awaiting court approval.

DISCUSSION

Exempted Categories

SCBs are exempted from maintaining CRR on the following liabilities:

Demand and Time Liabilities in respect of their Offshore Banking Units and SCBs are not required to include interbank term deposits/term borrowing liabilities of original maturities of 15 days and above and up to one year in "Liabilities to the Banking System" as calculated under Clause of the explanation to 42 of the RBI Act, 1934. In a similar vein, banks should remove their interbank term loans and deposits with initial maturities of at least 15 days and up to one year from the definition of "assets with the banking system" for the purposes of maintaining CRR. Additionally free from reserve requirements is the interest that accumulates on these deposits.

CRR Computation Process

A one-fortnight lag in the upkeep of the required CRR by banks is offered as a simplification tool to help banks manage their funds better.

Upkeep of CRR on a Daily Basis

All SCBs are required to maintain minimum CRR balances up to 70% of the average daily required reserves for a reporting fortnight on all days of the fortnight in order to give banks the flexibility to select the best holding strategy based on their intra-fortnight cash flows. Currently, SCBs' eligible cash balances held with RBI under CRR are not subject to interest payments:

Weekly Report in Form A

According to Section 42 of the RBI Act of 1934, all SCBs must submit a preliminary Form 'A' Return to the Reserve Bank within seven days of the relevant fortnight's expiration, and they must submit their final Form 'A' Return to the RBI within twenty days of the relevant fortnight's expiration.

Regarding the SB accounts, the SCBs calculate the percentage of demand liabilities and time liabilities in relation to their savings bank deposits using the situation as of the business closes on the 30th of September and the 31st of March of each year. The amount reflecting the "time liability" element of the savings bank deposits shall be recognized by the bank as the average of the minimum balances maintained in each month throughout the course of the half-year term. The difference would be the "demand liability" part when it is subtracted from the average of the actual balances kept during the half-year period. To determine the demand and time liabilities components of savings bank deposits for all reporting fortnights for the next half year, the proportions of demand and time liabilities so acquired for each half year should be used.

Penalties

If SCBs fail to maintain CRR in accordance with Reserve Bank of India regulations, penalties would be assessed as follows.

Ratio of Statutory Liquidity

Statutory Liquidity Ratio: Also known as SLR, this term refers to the required reserves that banks must hold in the form of permitted securities. This is likewise based on a certain proportion of a bank's time and demand liabilities.According to section 24 of the Banking Regulation Act, each Indian banking company is required to keep a certain amount in cash, gold, or unencumbered approved securities on hand in India at all times. This amount cannot, at the close of business on any given day, be less than the percentage of its total Indian demand and time liabilities that the RBI has specified. The "Statutory Liquidity Ratio" is what this is called.

The Banking Regulation Act of 2007 amended Section 24 of the Banking Regulation Act of 1949, allowing the Reserve Bank to fix the SLR for SCBs in certain assets. As of the last Friday of the second previous week, the value of such assets of a SCB shall not be less than such percentage not exceeding 40% of its total DTL in India, as the Reserve Bank may from time to time define by publication in the Official Gazette.Every SCB must maintain the following assets in India, the value of which must not, at the close of business on any day, be less than the percentage prescribed by the Reserve Bank of India of the total net demand and time liabilities as on the last Friday of the second preceding fortnight, valued in accordance with the method of valuation prescribed by the Reserve Bank of India from time to time. Cash, gold, or other assets worth no more than the going market rate, or Purchase of the following securities, referred known as "Statutory Liquidity Ratio securities":

Issued Treasury Bills with dates from the Indian government. The securities mentioned above, if bought via the Reserve Bank- Liquidity Adjustment Facility, should not be recognized as an eligible asset for this. Any other instrument that the Reserve Bank of India may notify. For the purposes of calculating the aforementioned percentage, encumbered SLR securities should not be taken into account. The following will be taken into consideration while calculating the amount for the aforementioned use as "cash maintained in India": Any balances held by a scheduled bank with the Reserve Bank in excess of the balance required to

be held by it under Section 42 of the Reserve Bank of India Act, 1934; Net balances in current accounts with other scheduled commercial banks in India. These deposits must be made with the Reserve Bank by banking companies incorporated outside of India in accordance with Section 11 of the Banking Regulation Act, 1949.

The SLR computation process

The method used for CRR and the method used to calculate total NDTL for SLR under section 24 of the B.R. Act 1949 are mostly comparable. Interbank term deposits and term borrowing obligations of all maturities must be included in SCBs' "Liabilities to the Banking System" section. Similar to this, banks should include their term lending and deposit assets with other banks in the category "Assets with the Banking System" when calculating NDTL for SLR purposes.Banks may follow the guidelines provided by RBI from time to time on Prudential Norms for classification, valuation, and operation of investment portfolio by banks with respect to the classification and value of permitted securities.

Penalties

According to the instructions issued from time to time by the Reserve Bank of India, if a banking business fails to maintain the appropriate level of SLR, it should be responsible for paying the RBI in respect of such failure.Return in Form VIII Banks must submit a return in Form VIII to the Reserve Bank by the 20th dayof every month, detailing the amounts of SLR they held on alternate Fridays during the month prior, as well as information about the DTL they held on those Fridays in India, or, if any particular Friday is a Public Holiday under the Negotiable Instruments Act of 1881, at the end of the previous working day. Additionally, banks must provide a statement as an annexure to their Form VIII report that details the daily position of the assets, they hold to comply with SLR, the surplus cash balances they retain with the RBI in accordance with the specified format, and the method used to value securities.

In the fortnightly/monthly statutory reports filed to the Reserve Bank for the financial year, the Statutory Auditors should confirm and certify that all items of outside liabilities, as per the bank's accounts, had been properly prepared by the bank and appropriately shown under DTL/NDTL.

Currency Management: Cash

Our nation's currency is printed by the Reserve Bank of India. Under Section 22 of the RBI Act, the Reserve Bank is the only institution authorized to administer and issue currency in India. Based on the recommendations made from time to time by the Central Board of the bank, RBI may issue notes in various denominations as determined by the Central Government. These notes need to be accepted as legal money across India. Through its Department of Currency Management in Mumbai, the Reserve Bank manages the currency function. The total value of the gold bars, coins, and foreign securities owned by the RBI shall never exceed the established ceiling. The Issue Department and the Banking Department are responsible for managing the Reserve Bank's currency. The issuance department shall make sure that the value of all currency and bank notes currently in circulation is equal to the eligible assets owned by the RBI.

Money Cabinets

For the issuance of currency notes and the distribution of coins and currency notes throughout India, the Reserve Bank of India has developed the necessary arrangements. Currency Chests are one of the Reserve Bank's distribution channels. A few bank branches have been given

permission by the Reserve Bank to open cash chests. Bank notes and coins are stocked/stored in these currency chests on behalf of the Reserve Bank. Banks keep both new currency notes and dirty, re-issuing notes in currency chests under their control. The banks inspect the banknotes and note production plants owned by The Bharatiya Reserve Bank Note Mudran Pvt Ltd at Nashik, Devas, and Mysore. For the manufacture of coins, SPMCIL maintains mints in Mumbai, Noida, and Hyderabad. When issuing, distributing, and withdrawing coinage on behalf of the Central Government, the Reserve Bank functions as its agent.

The number of counterfeit notes that have entered the system is what worries the Reserve Bank of India. Regular news releases and displays of "Know Your Bank Note" have been used by the Reserve Bank to inform the public, banks, and other stakeholders. The Reserve Bank sometimes disseminates information about the currency notes' security characteristics. Installing the necessary ultraviolet and counterfeit note detection equipment is advocated for banks. The Reserve Bank offers banks and government treasury offices training and gives comprehensive recommendations on how to recognize and conduct further appropriate actions, such as imprisoning such currencies.

Control Over Advances

Lending money in the form of loans and advances is a banking company's main operation. Long-term, medium-term, and short-term lending are all possible. Money may be lent to several types of borrowers for a variety of reasons on a secured or unsecured basis.In order to satisfy their actual demands, industry, agriculture, and commerce must be able to access an acceptable amount of bank credit. In order to control inflationary pressures, it is also necessary to prevent credit from being misused and to limit excessive credit growth. The Reserve Bank's fundamental duty as the central monetary authority is to guarantee credit availability to the degree necessary to support the pace of growth and encourage the preservation of internal price stability.

The Banking Regulation Act gives the Reserve Bank the authority to require banking businesses to regulate their loans and advances. The Reserve Bank may decide the policy of bank loans and advances and provide directions from time to time. The Reserve Bank may issue directions to all banking companies or to any specific banking business.

The following are the two kinds of credit control instruments:

1. Quantitative/General Credit Control, General or Quantitative, Selective or Qualitative

The following instruments are covered under the General Credit Control:

1.Bank Rate Policy

The Bank Rate is described as "the standard rate at which it is prepared to buyer rediscount bills of exchange or other commercial paper eligible for purchase under this Act" under section 49 of the RBI Act. The RBI can control the commercial bank credit and the nation's overall credit position to some degree by changing the interest rate. Because the RBI lacks a system to regulate the unorganized sector, its influence has not been very significant.

2. Requirements for Reserves

As previously mentioned, the Reserve Bank of India has the authority to alter the CRR and SLR. The RBI controls or uncontrol’s the flow of money by adjusting the reserve requirements for various economic sectors. When the RBI raises SLR or CRR, it limits commercial banks' ability to provide credit and helps to control inflationary pressures.

3. Open Market Activities

Open market operations are a versatile tool for credit management that allows the Reserve Bank to change the liquidity position of the bank on its own initiative rather than exerting its influence subtly by changing the cost of credit. The Central Bank may engage in open market operations by buying and selling a range of assets, including government securities, commercial bills of exchange, foreign currency, gold, and even corporate shares. In reality, however, RBI restricts itself to the acquisition and disposition of government assets, such as Treasury Bills. When the RBI buys government securities from banks, the banks' most recent deposits tend to rise, increasing their cash reserves and, as a result, their ability to provide lending. In contrast, when the RBI sells assets to banks, the banks' deposits with the RBI are decreased, which shrinks the credit base. The end outcome would be a decrease in the money supply and a contraction of credit.

CONCLUSION

In conclusion, the structure of bank boards of directors and their powers play a key role in determining how successful and long-lasting financial organizations are. Corporate governance is improved and a culture of responsible decision-making is fostered by a board that is properly formed, has a wide range of experience, and includes independent voices. Board members may successfully guide banks toward long-term profitability while defending the interests of shareholders, customers, and the larger society by acknowledging the importance of directors' rights and upholding their fiduciary obligations. But it's crucial to find a balance between giving the board more authority and preserving effective decision-making procedures. A board's efficacy may be hampered by excessively complicated arrangements or a high number of directors. Directors' rights are essential, but they must also be backed by a comparable feeling of accountability and duty. Directors must use caution and vigilance while keeping in mind the bank's and its stakeholders' long-term interests.

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CHAPTER 4

EXPLORES THE SIGNIFICANCE OF REPO RATE AND REVERSE REPO RATE

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ABSTRACT:

Repo rate and reverse repo rate are important monetary policy instruments used by central banks to regulate the money supply and control inflation.

This paper explores the significance of these interest rates in the context of monetary policy, their impact on the economy, and their role in influencing borrowing and lending activities in the financial markets. By analyzing the practices of various central banks and empirical studies, this study sheds light on the mechanisms through which repo rate and reverse repo rate adjustments affect economic variables.

The findings provide valuable insights into the nuances of these policy tools and their implications for monetary stability and economic growth.

The repo rate, which is the rate at which commercial banks borrow funds from the central bank, is often used as a tool to manage inflation and economic growth. By increasing the repo rate, the central bank aims to reduce liquidity in the financial system, making borrowing more expensive, and curbing inflationary pressures. On the other hand, a decrease in the repo rate stimulates economic activity by making borrowing cheaper and encouraging investment and consumption.

KEYWORDS:

Bank Lending Rates, Central Bank, Commercial Banks, Inflation Targeting, Liquidity Management, Monetary Policy.

INTRODUCTION

Since December 1992, the RBI has held buyback auctions for dated Central Government securities. When there is a lack of liquidity in the banking system and interest rates are rising, the RBI will buy government securities from banks. Payment is provided to the banks, which increases liquidity and increases creditreverse lending Reverse repos have been available since November 1996 and are used by the RBI to auction off government assets at set interest rates.

It gives banks short-term parking spaces for their excess cash when there is a lot of liquidity and the call rate tends to go down. These two rates are often used today to either increase or decrease the money supply[1], [2].

Moral Influence

In order to manage and control the flow of credit generally or to any specific sector of the economy, the Reserve Bank will often issue advise and exhortations to banks and other participants in the financial system.

This might be tried via routine conversations and debates. This method has worked well since a significant portion of banking activity is in the public sector[3], [4].

Direct Action

This tactic demonstrates the Reserve Bank's refusal to provide facilities to banks that do not adhere to good banking practices or where the Reserve Bank believes the capital structure of the bank to be very weak. This is seldom tried, but when deliberate and persistent breaches of Reserve Bank/Indian government rules are involved, it is utilized[5], [6].

Individualized Credit Control

The Banking Regulation Act's sections 21 and 35 A are invoked in order for the Reserve Bank to exercise its jurisdiction under the Selective Credit Control. The Reserve Bank may issue directives to banks generally or to a specific bank or group of banks regarding various aspects of extending credit, including: the purposes for which advances may or may not be made; the margins to be maintained in respect of secured advances; the maximum amount of advances or other financial accommodations which may be made by a bank to; or the maximum amount of guarantees which may be given by a bank on behalf of any one company, firm, or association.The third instrument acts as a leverage on the cost of credit while the first two instruments govern the amount of credit. To maintain a balance between the supply and demand of the necessities, selective credit control is used. The fundamental goal of the Selective Credit Control is to prevent people from speculatively stockpiling necessities on bank credit[7], [8].The following are some of the key limitations on loans and advances:

No Indian bank may provide loans or advances secured by its own shares, under the terms of the Banking Regulation Act. No banking firm may pledge or mortgage shares in a business for more than 30% of that company's paid-up capital, or 30% of the bank's paid-up capital plus reserves, whichever is smaller. No banking organization may agree to provide loans, advances, or both to one of its directors or on their behalf. Additional limits on loans and advances made to the director in his or her capacity as a partner and guarantee. No bank may provide loans secured by fixed deposits held by another bank[9], [10].

Deposit certificates

The Reserve Bank of India may from time-to-time place limitations on certain loans and advances in accordance with the demands of the circumstance.

RBI as a foreign exchange controller

According to the Foreign Exchange Management Act of 1999, the RBI has the authority to prohibit, limit, and control the following: Transfer or issuance of any security or foreign security by any branch, office, or agency in India controlled by a person outside of India transfer or issue of any security or foreign security by a resident of India and by a person living outside of India any foreign currency borrowing or lending any rupee deposits between residents of India and those of other countries, including any borrowing or lending between residents of India and those of other countries. Export, import, or possession of money or currency notes.

Transfer of real estate outside of India, other than a lease of no more than five years by an Indian resident. Any purchase or transfer of real estate in India, other than a lease, by a person residing outside of India, as well as any guarantee or surety for any debts or other liabilities committed by residents of India and vice versa. The Reserve Bank does not do direct business in foreign currency with the general population. It grants permits to certain Scheduled Commercial Banks and other organizations, who are referred to as authorized dealers in foreign currency.

RBI as a government banker

The RBI is required under clauses 20 and 21 to conduct the banking activities of the Central Government. As a result, it must take money on behalf of the government, make payments up to the balance owing on the government's credit, and conduct the government's exchange, remittance, and other financial activities, such as managing the public debt. It serves as the government's counselor. Due to agreements made with State Governments under 21A, RBI carries out comparable tasks on their behalf. State Bank of India and its Associate Banks are the agents that the RBI has entrusted with the task of processing payments and receipts on behalf of the government. As representatives for the RBI, certain other commercial banks also carry out some government transactions.

RBI Serving as Lender of Last Resort

The scheduled banks are entitled to a number of financial facilities from the RBI under the terms of the RBI Act. The provisions made by the RBI for the financial requirements of banks are outlined in Section 17 of the RBI Act. Typically, the facility is offered as a rediscount on qualified invoices, loans, and advances secured by eligible assets. 18 allows for short-term loans secured by any other assets that the RBI deems adequate.

Facility with Marginal Standing

Banks must pay interest that is 100 bps more than the repo rate in order to borrow money via this window. Banks are only permitted to utilize MSF after using up all of their net demand and time liabilities' excess statutory liquidity ratio. Banks maintain extra SLR on hand to use as collateral when requesting cash from the federal reserve or the overnight market to support the purchase of products.

Fiscal and monetary policy

The Reserve Bank of India regularly releases its monetary and credit policy, which is a component of monetary management.

There are two elements to the declaration of monetary policy. Part A, which deals with Monetary Policy, is broken into four sections: –

1. A summary of local and international macroeconomic trends
2. Outlook and forecasts for monetary aggregates, inflation, and growth
3. Stance of monetary policy and
4. Monetary measures.

Part B focuses on the five regulatory and development policies, including:

1. Financial Stability
2. Financial Markets
3. The Provision of Credit and Financial Inclusion
4. Supervision and Regulatory Measures
5. Institutional Changes

Covered are the numerous facets of the local and global economies as well as the key events from the previous year. The discussion continues with future prospects for both the local and global economy. The key risks are also highlighted in the policy, including the current account deficit and inflation risk, along with the monetary controls to manage them and other hazards. In addition, topics and policies pertaining to financial stability, financial markets, and control mechanisms through laws and supervision are examined. The quarterly

evaluation time is also included in the Policy. Also mentioned are several actions made by the Reserve Bank of India in its capacity as supervisor and regulator of the Indian banking system. It also covers credit delivery and other matters pertaining to lending to priority sectors. Also included are IT efforts and associated problems. The Reserve Bank of India's monetary policy highlights the many steps the organization has taken and anticipates taking in its capacity as the Monetary Management Organization.

DISCUSSION

Audit And Inspection of Banking Company

Audit

According to Section 30 of the Banking Regulation Act, a banking company's balance sheet and profit and loss account must be audited. According to the regulatory framework, the Statutory Auditors must confirm and certify the accounts of every financial organization.In accordance with the requirements of the businesses Act, auditors of banking businesses are also subject to the same rights, obligations, and other terms and conditions as other auditors. The auditors are required to submit extra information and certifications while auditing the books of accounts of banking businesses.They include whether or not the auditor's requests for information and explanations were met; whether or not the auditor found the company's actions to be within its authority; whether the profit and loss account accurately depicts the company's gain or loss for the time period for which the books have been audited; and any other findings that should be brought to the shareholders' attention.Since the bank's balance sheet and profit and loss account show the banking company's good financial status, the bank auditor is given extra duty for verifying them.

The Banking Regulation Act gives the Reserve Bank of India the authority to perform or order a special audit of any banking company's accounts in addition to the balance sheet audit. If the Reserve Bank of India determines that the special audit is essential, in the public interest, in the interest of the banking firm, or in the interest of the depositors, the special audit may be undertaken or ordered to be done. The bank may be instructed by the Reserve Bank of India to choose the same auditor or a different auditor to carry out the special audit. The Reserve Bank of India should get a copy of the special audit report, along with the banking organization. The banking business is responsible for covering the cost of the audit.

Framework for Regulation and Compliance

The Reserve Bank of India is authorized to examine any banking firm under Section 35 of the Banking Regulation Act. Following the examination of the banking firm's books, accounts, and records, a copy of the inspection report must be given to the banking company. The banking firm, its directors, and its employees must turn over the necessary documents within the time frame set by the inspectors, including the necessary statements and/or information, as well as the books, accounts, and records that the RBI inspectors need.

Government's function

Any banking firm may be subject to scrutiny on the Central Government's orders to the Reserve Bank. In certain situations, the Central Government must get a copy of the inspection report. The Central Government is able to take the necessary measures after reviewing the inspection report. The Central Government may prohibit the banking firm from accepting new deposits if it believes that its operations are not being conducted in a way that is in the best interests of the company, the public, and/or its depositors. instruct the Reserve Bank to request the winding up of the banking firm in accordance with the Banking Regulation Act's

requirements. The government must give the financial business a chance to clarify its position before acting. The government may take the necessary measures based on the answer.

Scrutiny

The Reserve Bank has the authority to examine any banking company's activities and books of accounts in addition to the company's books and accounts. The Reserve Bank may manage the scrutiny as necessary, just as in the case of the inspection.

Monitoring and Control

Financial Supervision Board

According to the rules of the Reserve Bank of India, a separate body called "The Board for Financial Supervision" was established to have greater monitoring and control. The State Bank of India and its subsidiaries, as well as banking firms and nationalized banks, are under the purview of the Board. The Board is made up of the following individuals: the Governor of the Reserve Bank of India, who also serves as its chair; four directors from the Reserve Bank's Central Board, whom the Governor has nominated as members; and two Deputy Governors of the Reserve Bank of India. Services and Authority: According to the Reserve Bank of India Act, the Board oversees and inspects various banking organizations. The Board also conducts several duties. The department of oversight provides assistance to the Board. Every six months, the Board is required to report to the Central Board. The Board has at least one meeting every month and meets on a monthly basis. Like the executive committee, the Board has the authority to create subcommittees. The committee's ex-officio chairman is the vice chairman of the board.

In addition to the aforementioned, the Governor may create an advisory group to sometimes provide the Board with recommendations. The council will consist of at least five individuals with expertise in management, banking, economics, law, accounting, and other related fields. Meetings are presided over by the governor, who is joined by the vice chairman and other council members.

Bank consolidation and mergers as part of winding up

According to the BR Act, a banking company may merge with another banking business. The banking businesses are required to create an amalgamation plan, and they must provide a separate copy of the plan's draft terms and conditions to their shareholders. Notice to each Shareholder should be provided, the plan of amalgamation must be accepted by a majority vote of the members, who must be present in person or by proxy and represent two-thirds of the combined worth of the shareholders of each firm. If a shareholder votes against an amalgamation plan and delivers the required notification, the banking business must pay the shareholder the value of his shares if the Reserve Bank approves the plan. The assets and liabilities of the merged firm transfer to the other company with whom it is to be merged after the Reserve Bank has approved the plan. The definitive evidence of amalgamation will be the Reserve Bank's order approving the merger. If the Central Government authorizes the merger of two businesses, the Reserve Bank would be consulted prior to the merger.

In accordance with Section 45 of the Banking Regulation Act, the Reserve Bank may request from the Central Government a moratorium order for any corporation for a number of good causes. The Central Government may decide that imposing the moratorium is appropriate and suitable after taking numerous factors into account. The moratorium period may be periodically extended for a maximum of six months. Except as otherwise authorized by the Central Government in the order of moratorium or at any time afterwards, the banking firm

would not be permitted to make any payments to the depositors during the period of moratorium or discharge any liabilities or obligations to any other creditors.

Plan of Combination

The Reserve Bank may draft a rebuilding or merger plan during the moratorium. The Reserve Bank may create such a plan for any one or more of the following reasons: For the benefit of society. In the depositors' best interests. To ensure the banking firm is managed properly. In the best interests of the nation's financial system. The merger plan would be developed and put into effect in accordance with the relevant laws. The government, the financial institution, and other parties involved in the merger should all get copies of the scheme's draft. The program should go into force as of the date of the approval, with any amendments that the government deems essential. The banking company, transferee bank, and members, as well as depositors and other creditors and others as specified in the sanction, would be bound by the plan after it has been approved by the Central Government. The Central Government's approval is the ultimate evidence that the merger or reconstruction was carried out in line with the requirements of the applicable section of the Act. Following the merger, the transferee bank must continue operating in accordance with the law.

On the request of the Reserve Bank, the Central Government may impose a moratorium on the banking businesses. When a banking firm is unable to pay its obligations or in certain other situations, the Reserve Bank may also seek to the High Court for the winding up of the banking company. A moratorium order would be issued when the High Court made a decision based on the case's merits. In order to protect the interests of the depositors and customers, the court may name a special officer to assume custody and control of the financial company's assets, books, etc. after issuing the order. If, during the moratorium, the Reserve Bank is dissatisfied with how the bank is operating and determines that its business activities are not being managed in the interests of its clients and depositors, it may petition the High Court to have the corporation wound up.

Closing by the High Court

The High Court may rule that a banking business be wound up due to the bank is unable to meet its obligations. The Reserve Bank had submitted a winding-up request in accordance with the requirements of the Banking Regulation Act.

If instructed by the Central Government, the RBI must file a petition for winding up and under Section 35. Based on the Reserve Bank's inspection or scrutiny report and the fact that the bank's operations are being run against the interests of its depositors, the Central Government may issue such a directive. However, the financial business would be given the chance to make a representation in connection with the inspection/scrutiny report before making such a directive.

The Reserve Bank of India may request the winding up of a banking firm under the following conditions. non-compliance with the minimum reserves and paid-up capital requirements outlined in Section 11. Section 35 of the Banking Regulation Act and Section 42 of the Reserve Bank of India Act both prohibit accepting new deposits.

The Banking Regulation Act and the Reserve Bank of India Act pertinent clauses are not followed in their entirety.

Official Liquidator According to Section 38A of the Banking Regulation Act, the Central Government may appoint an official liquidator who is tethered to the High Court to oversee the winding up of a banking business.

As the Liquidator, the Reserve Bank

The Reserve Bank, State Bank, any other bank that has been notified by the Central Government, or a person, may also be appointed as the official liquidator if Reserve Bank of India makes an application to the High Court. The liquidator must provide a preliminary report about the availability of the assets to make preferential payments in accordance with the Companies Act and to satisfy liabilities to depositors and other creditors within the allotted period. The liquidator must notify all secured and unsecured creditors of claims for preferred payment and other claims within the allotted period. Depositors don't have to submit claims, nevertheless. Every depositor of a banking firm is regarded to have filed claims for the sum shown in the bank's records as standing at his or her credit.

CONCLUSION

In conclusion, Central banks use the repo rate and reverse repo rate to administer monetary policy and affect economic factors. Their responsible and calibrated usage may promote financial stability, price stability, and economic prosperity. However, in order to make well-informed choices that support sustainable and equitable economic growth, central banks must take a comprehensive approach, taking into account a variety of policy instruments and continually analyzing the economic environment. There are restrictions on using repo rate and reverse repo rate modifications alone to direct the economy, however. Changes in these rates sometimes may have a delayed effect on the economy, and the transmission process may be hampered by a number of market flaws.

The possible risks and negative repercussions of their policy measures need to be carefully considered by central banks.

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CHAPTER 5

DISCLOSURE OF ACCOUNTS AND BALANCE SHEETS OF BANKS

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ABSTRACT:

The disclosure of accounts and balance sheets of banks is a fundamental aspect of financial transparency and accountability. This paper examines the significance of disclosing banks' financial information, the regulatory framework governing such disclosures, and the implications for stakeholders and the broader financial system. By analyzing case studies and relevant literature, this study sheds light on the benefits and challenges of disclosure practices, the role of disclosure in fostering investor confidence, and the potential impact on financial stability. The findings provide valuable insights into the importance of robust disclosure practices for ensuring the integrity of banks' financial reporting and enhancing market efficiency.By making detailed financial information publicly available, banks create an environment of trust and confidence among investors, depositors, and regulators. Disclosure practices not only facilitate market discipline but also contribute to effective risk assessment and efficient allocation of capital.

KEYWORDS:

Assets, Capital Adequacy, Cash, Contingent Liabilities, Credit Quality, Debt Securities.

INTRODUCTION

The financial statements of banks are used by a variety of people who want information on the financial health and performance of the banks, including shareholders, investors, creditors, credit rating agencies, management students, and others[1], [2]. The users of the financial statements must have access to information about the bank's financial condition and performance in order to make informed economic choices. These customers are looking for crucial details regarding the bank's liquidity and solvency as well as the risks associated with the assets and liabilities listed on its balance sheet and its off-balance sheet items. The 'Notes' section of the financial statements, which is supplemental information for market discipline, may be used to give this helpful information. Under the Basel II framework on capital adequacy, market discipline has received the attention it deserves by being acknowledged as one of its three Pillars. Some extremely relevant information is best supplied, or can only be provided, in the notes to the financial statements in order to provide the full and comprehensive disclosure. As a result, notes are now an essential component of banks' financials. These remarks and other data may be used by the consumers to make an informed choice[3], [4].

Disclosures at a Minimum

Banks must make careful to provide the necessary information in "Notes to Accounts" while adhering to the Minimum Disclosures rules. In addition to the minimum disclosures, banks are urged to provide more information to aid in understanding the bank's financial position and performance. However, it should be noted that the information provided is only meant to supplement other disclosure obligations under applicable law or accounting and financial reporting standards[5], [6].

Overview of Important Accounting Policies

Banks should provide Notes to Accounts and a single disclosure in their financial statements of the accounting rules used in each of their significant operational areas. Basis of Accounting, Foreign Exchange Transactions, Investments - Classification, Valuation, etc., Advances and Provisions thereon, Fixed Assets and Depreciation, Revenue Recognition, Employee Benefits, Provision for Taxation, Net Profit, etc. are all on the list.

Disclosure Conditions

With the goal of promoting market discipline, the Reserve Bank has over the years developed a set of disclosure requirements that enable market participants to evaluate key pieces of information regarding capital adequacy, risk exposures, risk assessment processes, and key business parameters[7], [8]. These requirements offer a consistent and understandable disclosure framework that improves comparability. The Institute of Chartered Accountants of India's Accounting Standard 1 on Disclosure of Accounting Policies, which applies to banks, must also be followed. The revised bank balance sheet and profit & loss account as well as expanding the breadth of disclosures required to be provided in "Notes to Accounts" have been used to accomplish the expanded disclosures.

Information in Supplemental/Additional Form

Banks must provide the following information in the in addition to the 16 meticulously defined schedules to the balance sheet: Additional information may be included in the "Notes to Accounts" that have been provided, such as: Capital with split incorporating CRAR - Tier I/II capital, percentage of the GOI's ownership, and the amount of subordinated debt raised as Tier II capital. Additionally, it needs to display the entire amount of subordinated debt acquired via head office borrowings for inclusion in Tier II capital, etc. Investments: With the entire number of investments, the whole amount should be stated in crores, indicating both the gross value and the net value of investments made in India and abroad.

The movement of provisions retained for investment depreciation should also be included in the details.A separate note on repo transactions should be included under investments, including the lowest and maximum outstanding amounts for the year, the daily average outstanding amount for the year, and the outstanding amount as of March 31. The Issuer Composition of Non-SLR Investments would make up the Non-SLR Investment Portfolio. Transfers & Sales to/from the HTM Category.

Transfers & Sales to/from the HTM Category

The bank should disclose the market value of the investments held in the Hold to Maturity category and indicate the provision not made for the excess of book value over market value if the value of sales and transfers of securities to/from the HTM category exceeds 5% of the book value of the investments held in the HTM category at the beginning of the year. This disclosure must be disclosed in the bank's audited annual financial statements. The above-mentioned 5 percent cutoff will not apply to sales to the Reserve Bank of India under per-announced OMO auctions or to banks that make one-time transfers of securities to or from the HTM category with Board of Directors approval at the start of the accounting year. The standards for HTM/HFT and AFS securities are constantly changing to suit market trends and regulatory concerns.

The students would do well to keep track of local developments and changes by consulting the RBI website.

Details pertaining

The notional principle of swap agreements would be important disclosures. Losses that would occur if counterparties didn't follow through on their agreements' requirements collateral that the bank requires when doing swaps. Information on credit and market risk as well as the accounting principles used for recording the swaps are included in the nature and conditions of the swaps. Exposure to certain sectors or exchanges with highly geared corporations are two examples of concentration. The fair value would be the projected sum that the bank would receive or pay to terminate the swap agreements as of the balance sheet date if the swaps were tied to particular assets, liabilities, or obligations. The mark to market value of a trade swap would be its fair worth.

Interest rate derivatives traded on exchanges

The notional principal amount incurred for Exchange Traded Interest Rate Derivatives would comprise the following: throughout the year, 38, outstanding as of 31st March, outstanding and not "highly effective," Exchange traded interest rate derivatives with outstanding mark-to-market values that are not "highly effective[9], [10].

Detailed Disclosure

Banks should specifically address the usage of derivatives, related risks, and business objectives when addressing their risk management practices for derivatives. The scope and nature of risk measurement, risk reporting and risk monitoring systems, policies for hedging and/or mitigating risk, strategies and processes for assessing the ongoing efficacy of hedges/mitigants, and accounting policy for recording hedge and non-hedge transactions; recognition of income, premiums and discounts; valuation of outstanding debt are also covered in this discussion.

Statistical Disclosures

Banks should also make qualitative disclosures in addition to the quantitative ones. Here are the specifics for both:

1. Currency Derivatives
2. Derivatives of interest rates Information that must be provided:
3. Derivatives with independent information, such as for trading and hedging.
4. Asset and liability positions that have been marked to market
5. Exposure to Credit
6. Potential effects of a 1% rise in interest rates on trading derivatives and hedging derivatives
7. The maximum and minimum 100*PV01 observed on trading and hedging throughout the year.

Asset Grade

Based on the caliber of the assets the banks hold, their performance is deemed to be excellent. Banks are focusing on making sure they hold higher quality assets in light of the changing environment and the many risks they face, including operational, market, and credit concerns. Therefore, the disclosure must include a variety of asset quality characteristics, such as: Non-Performing Assets, which include information such as Net NPAs, NPA movement, and pertinent data related to various categories of NPAs, including Write-off/write-back of excess provisions, etc. Information on non-performing financial assets that have been bought or sold must also be provided.

Specifics of Restructured Accounts

The information under several asset categories, such as Standard advances Restructured advancements of poor-quality Doubtful advances were reorganized TOTAL with information on the number of debtors, the amount owed, and the cost. Banks publish both the restructured component or facility and the total amount outstanding in all the accounts and facilities of borrowers whose accounts have been restructured. This implies that even if a borrower's facilities or accounts have only been partially restructured, the bank is still required to report the total amount still owed on all of those facilities and accounts. Information about financial assets sold to a company that specializes in asset reconstruction and securitization. The following disclosures must be made by banks that acquired non-performing financial assets from other banks in the Notes to Accounts section of their balance sheets. Similar to that, banks that sold non-performing financial assets provide information about such sales.

DISCUSSION

Provisions on Standard Assets:

Provisions for Standard Assets do not need to be subtracted from gross advances; instead, they should be included separately as "Provisions against Standard Assets" in Schedule No. 5 of the balance sheet, under "Other Liabilities and Provisions - Others."

Other information

Business ratios include return on assets, operating profit as a proportion of working capital, non-interest income as a percentage of working capital, interest income as a percentage of working capital, and business per employee profit.

Managing Assets and Liabilities

The maturity pattern of certain assets and liabilities, such as deposits, advances, investments, borrowings, foreign current assets, and foreign currency liabilities, is one aspect of asset liability management.

Banks must disclose information based on the maturity pattern for daily, monthly, and yearly basis, including Day 1, 2 to 7 days, 8 to 14 days, 15 to 28 days, 29 days to 3 months, Over 3 months and up to 6 months, Over 6 months and up to 1 year, Over 1 year up to 3 years, Over 3 years and up to 5 years, and Over 5 years, showing the amount in crores.

Exposures

Division of Exposures

Banks must also disclose information about their exposures to certain industries, such as the real estate industry, including information about their direct exposure to residential mortgages and commercial real estate.

Investments in securities based on mortgages

Exposure to National Housing Bank and Housing Finance Companies that is indirect and includes fund-based and non-fund-based exposures

Explicit Capital Market Exposure

Information on the current and prior year's capital market exposure, in crores, should be reported. Direct investments in stock shares and convertible bonds would be among the specifics. Loans and advances to stock brokers Loans sanctioned to convertible debentures

and units of equity-oriented mutual funds whose corpus is not entirely invested in corporate debt details of advances against shares, debentures, bonds, or other securities on a clean basis to individuals to invest in shares and other capital market instruments details of advances for any other purposes where securities in shares, debentures, or bonds are held as primary security

For the purpose of classifying and making provisions for nation risk exposures, banks may adopt the seven-category categorization used by the Export Credit Guarantee Corporation of India Ltd if they have not yet switched to their own internal rating system. The ECGC will provide the information to banks upon request on a quarterly basis. Included in the information should be net exposure and provisions retained as of Mach for both the current year and the prior year. In addition to the exposures listed above, banks must also provide information on any Single Borrower Limit or Group Borrower Limit that has been exceeded by the bank as well as Unsecured Advances.

Returns Submission to RBI

According to numerous sections of the Banking Regulation Act and the Reserve Bank of India Act, each banking firm is required to compile and submit returns to the Reserve Bank. The following returns are covered that must be filed to RBI:

1. Liquid Assets Return

According to the rules of the Banking Regulation Act, every banking firm is required to file a return of its liquid assets. At the conclusion of business on each alternate Friday, the return should include specific information about the assets as well as the demand and time liabilities. If such a Friday falls on a holiday, then as of the end of the previous working day. The Reserve Bank also has the authority to demand that a banking corporation provide reports outlining its assets, liabilities, and obligations as of the end of each day of the month.

2. Monthly Payments

A banking corporation is required by the Banking Regulation Act of 1949 to file a monthly return to the Reserve Bank.

This return is prepared as of the final Friday of the preceding month, and it must be filed before the end of the following month to which it pertains. Reserve Bank has the right to request documents at any time that pertain to the operations or affairs of the banking organization.

3. Balance Sheet and Accounts

Within three months after the end of the relevant period, the annual accounts and balance sheet must be presented to the Reserve Bank.

4. India's Asset Returns

According to the Banking Regulations Act, a banking business is required to provide the Reserve Bank a quarterly report on its assets in India. Within a month after the end of the quarter, the return must be filed.

5. Unclaimed Deposits Returned

A refund on unclaimed deposits must be submitted by a banking business in accordance with Section 26 of the Banking Regulation Act within 30 days of the end of each calendar year.

6. CRR Returned by Non-Scheduled Banks

According to Section 18 of the Banking Regulation Act, every banking business is required to submit a report to the Reserve Bank of India about cash reserves.

7. Weekly Report in Form A

According to Section 42 of the RBI Act of 1934, all SCBs must submit a preliminary Return in Form "A" to the Reserve Bank within seven days after the relevant fortnight's expiration, and they must submit their final report to the RBI within twenty days. The Working Group on Money Supply: Analytics and Methodology of Compilation recommended that all SCBs inThis report must be submitted by India.

Memorandum to Form 'A' Return containing information on Paid-Up Capital, Reserves, Time Deposits (Short-Term and Long-Term), Certificates of Deposits, NDTL, Total CRR Requirement, etc., Annexure A to Form 'A' Return containing information on All Foreign Currency Liabilities and Assets, and Annexure B to Form 'A' Return containing information on Investment in Approved Securities, Investment in Non-Approv The four main currencies of the US dollar, the British pound, the Japanese yen, and the euro shall be converted by banks into rupees at the RBI Reference Rates, which are periodically posted on its website, for reporting in Form 'A' returns.

8. Bring back a Form VIII

Banks are required to submit a return in Form VIII to the Reserve Bank by the 20th day of every month, detailing the amounts of SLR held on alternate Fridays during the previous month as well as details of the DTL held on those Fridays in India, or, if any such Friday is a Public Holiday under the Negotiable Instruments Act of 1881, at the close of business on the working day prior. Additionally, banks must provide a statement as an annexure to their Form VIII report that details their daily position with regard to the assets, they hold in order to comply with SLR, the surplus cash balances they retain with the RBI in the format required, and how they value securities.

9. NRE Deposits Report

In order to provide validations for processing requirements in respect of existing NRD schemes, improve data quality, increase the security level in data submission, and enable banks to use various XBRL-based data submission, and tracking features, the NRD-CSR software package that was being used by the banks to submit detailed monthly data on non-resident deposits to the Reserve Bank has been replaced.

10. Revisions to the Priority Sector Lending Reporting System

The definition of a disbursement in the monthly and annual reporting forms is as follows: Cash credit/over draft accounts and running accounts of a same nature: Debit summation less interest and other fees or the sanctioned limit, whichever is lower for the specific period under consideration. Term Loans: Total debits for the time under consideration, less interest and other fees.

Fraud classification

1. Based mostly on the Indian Penal Code's provisions, frauds are categorized as follows:
2. Theft and treasonous violation of trust.

3. Counterfeiting documents, fiddling with accounting records or opening false accounts, and property conversion are all examples of fraud.
4. Credit lines that were extended illegally for payoff or unlawful pleasure.
5. Lack of money and carelessness.
6. Forgery and dishonesty.
7. Irregularities in transactions involving currency.
8. Any other kind of fraud that does not fall within the aforementioned categories.

If the intent to deceive or defraud is suspected or established, cases of "negligence and cash shortages" and "irregularities in foreign exchange transactions" must be reported as fraud.

Examples include:

Cash shortages that total more than $10,000 or that total more than $5,000 if they are discovered by management, an auditor, or an inspector but are not reported on the day they occur. Fraud shall be considered when fraudulent intent is suspected but not proven at the time of discovery. When a legitimate instrument is fraudulently collected by someone who is not the actual owner, the collecting bank, which has been cheated, must submit a fraud complaint with the RBI. Frauds involving forgeries must only be reported by the paying banker. The collecting bank must report the transaction as fraud to the RBI since they are losing money by splitting the amount when an instrument is collected where the money has been credited before realization and the instrument is later discovered to be false or forged and returned by the paying bank. When two or more branches of the same bank are involved in the collection of a phony or altered check, the branch where the check was cashed is obligated to notify its head office of the fraud. requires further reporting by the H.O. to RBI. Under Core Banking Solution, the branch that released the money must notify its H.O. of any changed or phony checks that were paid or cashed involving two or more branches of the bank. for further reporting to the RBI.

Theft, burglary, dacoity, and robbery cases are not considered fraud cases. All frauds committed at foreign branches or offices must be reported to RBI by banks with such branches or offices.

Fraud notification to RBI

In relation to individual fraud cases involving a sum of $1.00 lakh, banks are not required to submit FMR-1 returns to the RBI. However, banks shall provide a quarterly statement to RBI with the statistical information about these scams.

Frauds involving sums of $1,000,000 or more but less than $250,000 Frauds involving subsidiaries, affiliates, and joint ventures committed through misrepresentation, breach of trust, accounting bookkeeping manipulation, fraudulently cashing checks, drafts, and bills of exchange, handling authorially of securities charged to the bank, misfeasance, embezzlement, misappropriation of funds, conversion of property, cheating, shortfalls, irregularities,criminal cases that central investigative agencies have started on their own initiative, as well as those that the RBI has instructed to be treated as frauds. Within three weeks after discovering fraud, banks must provide a soft copy of the reports to the Department of Banking Supervision's central office.

Individual fraud cases involving sums of "1.00 lakh and above but less than "25.00 lakh should be reported to the Reserve Bank of India's Regional Office of Urban Banks Department, under whose jurisdiction the bank's head office is located, in the format specified in FMR-1, within three weeks of the date of detection.

Frauds involving sums of at least $25,000

Individual fraud instances involving values of $25,000 or more shall be reported to the Central Frauds Monitoring Cell, Department of Banking Supervision, Reserve Bank of India, within three weeks of the date of identification, using the format outlined in FMR-1. Each instance should get a separate FMR-1, without any clubbing. The Regional Office of Urban Banks Department of the Reserve Bank of India, whose purview the head office of the bank falls, shall also get a copy of the FMR-1. Banks may use D.O. to report the scam. Within a week of the fraud becoming known to the bank's head office, a letter detailing the details, including the amount involved, the nature of the fraud, a brief description of the modus operandi, the name of the branch or office, the parties involved, etc., should be sent to the principal chief general manager of the department of banking supervision at the Reserve Bank of India.

Frauds carried out by Dishonest Borrowers

These scams include:

instrument discounts or kite flying with false claims of cleaning effects. removing stocks that have been hypothecated dishonestly, disposing of them without the bank's knowledge, inflating the value of the stocks on stock statements, and obtaining excessive bank financing. The unit becoming ill due to money being diverted elsewhere, lack of interest or criminal neglect on the part of borrowers, their partners, etc., as well as because bank employees were not effectively monitoring the activities in borrower accounts, making it difficult to recover the advance. Additional information as required by Part B of FMR-1 should also be provided in relation to frauds involving borrowable accounts. When evaluating the credit requirements of dishonest borrowers, borrower businesses, partnership/proprietorship concerns, and their directors, partners, and owners, etc., as well as their associates who have deceived the banks, banks are required to undertake due diligence. Other third parties, such as builders, car/tractor dealers, warehouse/cold storage owners, etc., and experts are also to be held accountable if they had a significant role in the approval or distribution of credit or assisted in the commission of frauds.

Banks must inform the Indian Banks Association of the specifics of any such third parties that have committed fraud.The practice of notifying the Fraud Monitoring Cell at the Reserve Bank of India's Central Office of attempted fraud when the loss would have likely been $25 lakhs or more has been terminated. However, the bank should keep the Audit Committee of its Board informed of any instance of attempted fraud involving $25,000 or more. The following should be included in the report on attempted frauds that is to be presented to the Audit Committee of the Board: The modus operandi of the attempted fraud How the effort did not materialize into a fraud or how it failed/or was thwarted. The steps taken by the bank to improve the current systems and controls new systems and controls put in place in the area where fraud was attempted Additionally, yearly consolidated review of such cases detected during the year containing information such as the area of operations where such attempts were made Effectiveness of new process and procedures put in place during the year Trend of such cases during the last three years Need for further process change.

CONCLUSION

In conclusion, A key component of financial stability and integrity is the disclosure of bank balance sheets and accounts. A well-functioning financial system is facilitated by transparent and consistent disclosure processes, which also improve market discipline and investor trust. Banks may enhance stakeholder trust, market efficiency, and ultimately sustainable economic

development by putting in place strong disclosure frameworks and following high-quality financial reporting requirements. Finding the ideal balance between openness and privacy is essential, however. The promotion of trust and market efficiency depend on full disclosure, yet there may be circumstances when it's necessary to hide sensitive information in order to prevent systemic dangers, financial instability, or competitive disadvantages for banks. Additionally, the quality and accuracy of the information presented is crucial to the efficacy of disclosure policies. To guarantee that stakeholders can make informed choices based on reliable data, it is crucial to standardize accounting standards and increase the dependability of financial reporting.

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CHAPTER 6

EFFECTIVE CORPORATE GOVERNANCE PRACTICES

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ABSTRACT:

Effective corporate governance practices are critical for maintaining transparency, accountability, and sustainable growth within organizations. This paper examines the significance of robust corporate governance mechanisms, the principles guiding corporate governance practices, and the impact on various stakeholders. By analyzing case studies and relevant literature, this study sheds light on the benefits of implementing effective corporate governance, the challenges faced in its adoption, and the role of regulatory frameworks in promoting good governance. The findings provide valuable insights into the importance of corporate governance in enhancing organizational performance and fostering long-term value creationindispensable for building trust among stakeholders, ensuring ethical behavior, and safeguarding the interests of shareholders, employees, customers, and the wider community. A well-structured corporate governance framework guides the decision-making process, fosters accountability, and aligns the interests of management with those of shareholders.

KEYWORDS:

Accountability, Audit Committee, Board Independence, Board, Code, Compensation Committee.

INTRODUCTION

To encourage the development of efficient, law-abiding marketplaces that are transparent. To safeguard and make it easier for shareholders to exercise their rights Timely and accurate disclosures must be given on all significant corporate matters, including the company's ownership, financial status, performance, and governance[1], [2].

Corporate Responsibility in Banks

As the supervisor of Indian banking firms throughout the years, the Reserve Bank of India has played a vital role in ensuring that the banking corporations follow good corporate governance procedures. Examples of the RBI's influence on Indian banks' corporate governance standards include its many recommendations for mergers and acquisitions, ownership patterns, and prohibitions on different concerns[3], [4]. The term "laundering" refers to the act of gaining, owning, holding, or transferring any profits of crime, as well as knowingly engaging in any transaction involving those proceeds, whether directly or indirectly, as well as hiding or assisting in the concealment of such earnings, whether within or outside of India. It is a method for making money that was gained fraudulently seem to have come from reputable sources. Every time money laundering occurs, it goes through three steps[5], [6].

The first phase is referred to as placement, and it involves depositing the money in local banks or using it to purchase items like artwork, precious metals, and other items. The layering process is the second phase. Following their entry into the financial system, the money is transferred to various locations. The layering step is known as that. Bank accounts are created in several places, and money is moved there as soon as feasible. The integration phase is the last one. The launderer makes an effort to prove that money gained via unlawful

means is genuine at this point. At this point, efforts are being made utilizing a variety of tactics, including using the front offices of the firms, tax havens, and offshore units, using these monies as collateral for loans received, etc.

Three key goals of the 2002 Prevention of Money Laundering Act were to prevent and regulate money laundering, confiscate and seize property earned via money laundering, and address any other issues related to money laundering in India[7], [8]. According to the Act, anybody who directly or indirectly seeks to engage in, knows aids, knowingly participates in, or really engages in any process or action related to the proceeds of crime and projects such funds as pristine property should be guilty of money laundering offenses. The PMLA lists specific offenses under the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, the Arms Act, the Wild Life Act, the Immoral Traffic Act, and the Prevention of Corruption Act that would fall under this Act's purview in terms of money laundering.The Directorate of Enforcement, which currently handles offenses under the Foreign Exchange Management Act, has been given the task of investigating, attaching property or proceeds of crime related to the scheduled offenses under the Act, filling out complaints, etc. in order to combat the threat of the aforementioned money laundering offenses[9], [10].

Banks' function

The aforesaid Act applies to all banks. Banks must exercise caution to avoid becoming a party to such transactions since money launderers may create deposit accounts with banks under false identities. It is made clear that whenever there is a suspicion of money laundering or terrorist financing or when other factors lead to a belief that the customer does not, in fact, pose a low risk, banks should conduct full-scale customer due diligence before opening an account. This is done to prevent banks from being used, intentionally or unintentionally, by criminal elements for money laundering or terrorist financing.

They must also follow the rules for maintaining records, reporting, creating accounts, and keeping track of transactions. The Act has created a number of measures addressing transactions involving money laundering, including the keeping of records of all such transactions. After the customer and financial company's last transaction, records pertaining to such transactions shall be kept for a minimum of ten years. The Act's provisions must be followed in order for there to be an offense; these offenses are both cognizable and non-bailable. Rigorous imprisonment for a minimum of 3 years and a maximum of 7 years, together with a fine according to the seriousness of the offense, would be the penalty. The Enforcement Directorate has been appointed as the official body for monitoring money laundering cases.

According to the Act, banking organizations, financial institutions, and intermediaries are required to keep track of transactions, customer information, etc. In the event that banks and other financial intermediaries fail, a director chosen by the central government has the authority to request data and impose fines. Rules addressing record keeping, record retention, customer identification verification, and providing information to the director upon request have been developed by the Central Government in conjunction with the Reserve Bank.

Banking businesses should fully adhere to the KYC criteria without any variation in order to achieve compliance under the PMLA. The same KYC standards apply to both new and existing customer accounts. The customer's clear identification is one of the KYC rules' goals. The identification is not complete until you have obtained the necessary identity papers, such as copies of your PAN card, passport, AADHAR card, and other pertinent documents as needed. Banks must make sure that all pertinent information is obtained and updated in bank records, including the status of the customer, relevant documentary

verification to confirm the status, declaration about the details of multiple bank accounts, source of income, source of funds, expected income, and activities in the accounts, among other things. This is in addition to obtaining the necessary application forms and photo ID and address proof documents. In order to allow bank officials to take the proper action, banks should also set up internal control checking systems that can recognize and alert them to anomalous transactions at the moment of entry. To prevent instances of money laundering at the entry level, banks should use extreme caution. The warning system incorporated into banking organizations' systems and the preventative step taken by bank staff would both significantly reduce the threat of money laundering.

In order to protect not just the cash of their clients but also to be proactive in preventing money laundering situations, banking firms should make sure that all of its staff, at all levels, are aware about and trained in anti-money laundering. The verification of the anti-money laundering processes should be included in the audit and inspection of banking businesses by the internal auditors, external auditors, including Statutory Auditors, and Reserve Bank of India inspectors. They must make sure that all necessary rules and regulations pertaining to anti-money laundering are followed, including the KYC requirements, account monitoring, record keeping, reporting of high-volume transactions, reporting of suspicious transactions, filing of necessary returns with the authorities, and proper control mechanisms. The executives need to make sure that these situations are monitored and controlled. Additionally, the computer systems need to be updated with the necessary verification and warning of unauthorized and questionable transactions during the input stage.

Banking Rules and Regulations India's Board

Under the Societies Registration Act of 1860, the Banking Codes and Standards Board of India has been registered as a distinct society. It serves as an independent and autonomous organization that monitors and evaluates adherence to the minimum service requirements for each client set out in the agreements between the banks. The Code is a bank's voluntary effort, and it also represents the bank's unilateral promise to each of its individual customers to conduct daily business in a transparent and equitable way. In the case of banks that are Board members, RBI receives supervisory comfort. The BCSBI may be contacted by the general public through its website or by mail at its address. URL of website: www.bcsbi.org.in

The Board's primary responsibility is to oversee compliance with the "Code of Bank's Commitment to Customers". The Code, which establishes minimal norms of banking practices for banks to adhere to when they engage with specific consumers on a daily basis, is optional. The Code is not only intended to safeguard specific consumers, but it is also anticipated to increase public knowledge of the rights that the average person has as a user of financial services. Banks are obliged to register as members with BCSBI and have their separate boards approve the Code. The banks will thereafter be required to sign a covenant with BCSBI obligating them to monitoring by BSCBI with regard to application of the code.Anyone with a Scheduled Commercial Bank may join the BCSBI. The Code serves as a representation of each member bank's commitment to providing minimal levels of customer service in respect to the goods and services the bank provides.

Banking Ombudsman Program

The Banking Ombudsman Scheme gives bank clients a quick and affordable venue to resolve complaints about certain services provided by banks. With effect from 1995, the RBI implemented the Banking Ombudsman Scheme according to Section 35A of the Banking Regulation Act, 1949. The Reserve Bank of India established the Banking Ombudsman, a

senior officer, to address consumer complaints about inadequate banking services. There are now fifteen Banking Ombudsmen, most of whose offices are in state capitals. The appendix contains the locations and phone numbers for the Banking Ombudsman offices. The Scheme covers all Scheduled Commercial Banks, Scheduled Regional Rural Banks, and Scheduled Primary Co-operative Banks.

DISCUSSION

Grounds of Complaints

The Banking Ombudsman can receive and consider any complaint relating to the following deficiency in banking services non-payment or inordinate delay in the payment or collection of cheques, drafts, bills etc.; non-acceptance, without sufficient cause, of small denomination notes tendered for any purpose, and for charging of commission in respect thereof; non-acceptance, without sufficient cause, of coins tendered and for charging of commission in respect thereof; non-payment or delay in payment of inward remittances: failure to issue or delay in issue of drafts, pay orders or bankers' cheques; non-adherence to prescribed working hours ; failure to provide or delay in providing a banking facility promised in writing by a bank or its direct selling agents; delays, non-credit of proceeds to parties accounts, non-payment of deposit or non-observance of the Reserve Bank directives, if any, applicable to rate of interest on deposits in any savings, current or other account maintained with a bank ; complaints from Non-Resident Indians having accounts in India in relation to their remittances from abroad, deposits and other bank-related matters; refusal to open deposit accounts without any valid reason for refusal; levying of charges without adequate prior notice to the customer; non-adherence by the bank or its subsidiaries to the instructions of Reserve Bank on ATM/Debit card operations or credit card operations; non-disbursement or delay in disbursement of pension ; refusal to accept or delay in accepting payment towards taxes, as required by Reserve Bank/Government; refusal to issue or delay in issuing, or failure to service or delay in servicing or redemption of Government securities; forced closure of deposit accounts without due notice or without sufficient reason; refusal to close or delay in closing the accounts; non-adherence to the fair practices code as adopted by the bank or non- adherence to the provisions of the Code of Banks Commitments to Customers issued by Banking Codes and Standards Board of India and as adopted by the bank ; non-observance of Reserve Bank guidelines on engagement of recovery agents by banks; and any other matter relating to the violation of the directives issued by the Reserve Bank in relation to banking or other services.

The following causes for service deficiencies with regard to loans and advances are also acceptable grounds for complaints from customers. Non-adherence to the provisions of the fair practices code for lenders as adopted by the bank or Code of Bank's Commitment to Customers, as the case may be; non-observance of any other direction or instruction; delays in sanction, disbursement, or non-observance of prescribed time schedule for disposal of loan applications; refusal to accept loan applications without providing sufficient justification to the applicant The Banking Ombudsman may also handle any additional issues that may sometimes be listed by the Reserve Bank.Making complaints to the Banking Ombudsman is free of charge. When handling client complaints, the Banking Ombudsman does not levy any fees.

Additional provisions

The amount that the bank would, if at all, pay the complaint as compensation for any losses sustained by the complainant is capped at the amount that results directly from the bank's conduct or omission, or at $10,000, whichever is lower. Only when complaints about credit

card operations result in mental anguish and harassment, the Banking Ombudsman may provide the complainant compensation up to $1 lakh. While making this decision, the Banking Ombudsman will take into consideration the complainant's lost time, expenditures spent by the complainant, harassment, and mental distress.The Reserve Bank of India was established by the Reserve Bank of India Act, 1934, with the purpose of regulating the issuance of bank notes for the purpose of maintaining reserves in order to preserve monetary stability and the efficient operation of the country's currency and credit system.

According to Section 5, the definition of banking is the acceptance of money deposits from the general public for the purpose of lending and/or investing. The Banking Regulation Act bans or forbids a variety of activities for banks. For instance: Goods trading operations are prohibited in accordance. The Banking Regulation Act of 1949 forbids banks from holding deposits, therefore in order to launch a banking operation in India, a corporation or organization must seek a license from the Reserve Bank of India. The minimum capital and reserve requirements of a banking company are outlined in Section 11 of the Banking Regulation Act.The requirements of Section 23 of the Banking Regulation Act of 1949 apply to bank branch openings. To be qualified to promote banks through a completely owned NOFHC, Promoters/Promoter Groups must be "fit and proper." The NOFHC would be controlled by its own set of guidelines after being registered with the RBI as a non-banking financial business.

According to the pertinent sections of the Banking Regulation Act, at least 51 percent of the total number of directors must be individuals with specialized knowledge or relevant experience in the fields of accounting, agricultural and rural economy, banking, economics, finance, law, etc.The minimum amount of reserves required by the Reserve Bank of India is known as the cash reserve ratio.Open market operations are a versatile tool for credit management that allows the Reserve Bank to change the liquidity position of the bank on its own initiative rather than exerting its influence subtly by changing the cost of credit.According to the BR Act, a banking company may merge with another banking business. The financial statements of banks are used by a variety of people who want information on the financial health and performance of the banks, including shareholders, investors, creditors, credit rating agencies, management students, and others. The Banking Ombudsman Scheme provides bank clients with a quick and affordable venue for the settlement of grievances about specific services provided by banks.

Customer-Banker Relationship

The kind of service a banker offers will determine the connection they have with their clients. The main activities of a bank include deposit taking, lending, and/or investing. In addition to its main duties, it also works with a variety of clients by offering extra services like secure custody and safe deposit boxes, as well as helping the clients by collecting their checks and other financial instruments as an agent and trustees on their behalf. As a result of the above, a client relationship with a bank may be categorized as follows:

It is clear from the above graphic that there are several kinds of relationships between a banker and a consumer.A firm that does banking operations in India is referred to as a banking company. Banking is defined as "accepting for the purpose of lending or investing money from the public, repayable on demand or otherwise and withdrawable by check, draft, order or otherwise" under Section 5 of The Banking Regulation Act, 1949. According to Section 7 of this Act, every firm engaged in the banking industry in India must have at least one of the terms bank, banker, banking, or banking company in its name. According to Section 49A of the Act, no institution other than a bank may take public deposits that are

withdrawable by check. The role of taking public deposits with the ability to withdraw money by check is the core of the banking industry. In other words, no institution may combine the tasks of accepting public deposits and withdrawing funds in the form of checks without the Reserve Bank's permission.

Aspects of Banking

The following are the fundamental traits that best describe the key components of banking:

Dealing with money:

Banks receive public deposits and lend the same amount as loans to those in need. Deposits might be made into many sorts of accounts, including current, fixed, savings, etc. The terms and circumstances under which deposits are accepted vary.

Deposits must be withdrawable:

The public deposits made may be withdrawable by checks, drafts, or other means; in other words, the bank may issue and pay checks. Most deposits allow for immediate withdrawal.

Regarding credit:

The institutions that have the ability to generate credit, or the generation of new funds for lending, are banks. Therefore, "creation of credit" is what makes banking special.

Commercial in character:

Because all banking operations are conducted with the intention of generating revenue, this kind of institution is said to be of a commercial nature.

Agent's nature:

Because of its many agency services, a bank has the characteristics of an agent in addition to performing the fundamental roles of receiving deposits and disbursing funds in the form of loans.There is no legal definition of what a bank's "customers" are. An individual who has a bank account is often referred to as a client. However, prior legal rulings and banking experts tended to qualify this remark by emphasizing the length of time that the account had really been kept with the bank. The duration theory, which places emphasis on the length of the dealings between the banker and the customer, is Sir John Paget's interpretation that "to constitute a customer there must be some recognizable course or habit of dealing in the nature of regular banking business." This point of view claims that establishing an account does not automatically make someone a client of the bank; instead, this happens after the individual has developed a relationship with the banker. The previously specified focus on the bank account's term is now dropped. In support of Dr. Hart's position, the Kerala High Court noted in the matter of Central Bank of India Ltd. that "a customer is one who has an account with a banker or for whom a banker habitually undertakes to act. Generally speaking, a client is a person who often uses the same location or trades with the same individual. He is a person whose money has been accepted for banking transactions on the understanding that the bank would honor the amount to his credit, regardless of how long or how short his connection has been.To be considered a "Customer" for the purposes of the KYC policy, a person or entity must: maintain an account with the bank; have a commercial connection with the bank; be the person or entity on whose behalf the account is maintained;

Beneficiaries of transactions carried out by qualified intermediaries, such as Stock Brokers, Chartered Accountants, Solicitors, etc. as permitted by law, and any individual or organization associated with a financial transaction that carries a high risk to the bank's

reputation or other risks, such as a wire transfer or the issuance of a high value demand draft in a single transaction. As a result, a person with a bank account in his name for whom a banker agrees to perform services in his capacity as a banker is referred to as a client. It is not necessary for the account to have been used for a while. The banker can identify a person as a client with only one deposit into the account. Although interacting with the banker in the past was not stressed, it is possible to anticipate that this habit will continue to grow. In other words, a client should anticipate working with his banker often in the future.

The nature of a person's interactions with a banker is a crucial factor in determining whether or not they qualify as a client. The aforementioned information makes it clear that his interactions with the banker must be related to the financial industry. Along with fulfilling their primary duties as bankers, agents execute a variety of agency tasks and provide a range of public utility services. a person who does not interact with a banker on the banker's fundamental duties, i.e. A person who uses any of the banker's services but does not take deposits or lend money is not referred to as a client of the banker. For instance, somebody without a bank account in his name may send money via a bank draft, pay a check he got from someone else, store valuables in the bank's safe deposit boxes, or deposit cash in the bank to be credited to the Life Insurance accountissuing fresh shares is a corporation or any joint stock business. However, he will not be referred to as a banker's client because of his dealings with the banker, which have nothing to do with the banker's core duties. Such transactions are regarded as informal transactions and do not fall within the category of banking activity.

In order to qualify as a client, the following requirements must be met: a bank account must be created in his name, whether it be a savings, current, or fixed deposit account, and the banker and customer must engage in banking activity. A banker's client does not always have to be a person. A client might be a business, joint stock company, society, or any other kind of distinct legal organization. The Banking Regulation Act, 1949's explanation to section 45-Z makes it clear that "customer" includes a government agency and a company formed by or pursuant to any legislation. Since the connection between a bank and a client is contractual, it follows that any individual who is competent to enter into a contract may create a deposit account at any bank branch that best suits his or her needs. A person must meet the prerequisites of majoring and having good mental health in order to engage into a legal contract. Anyone who satisfies these fundamental prerequisites as well as the previously listed conditions of the banks is eligible to create a bank account. With certain limitations, children may create savings accounts however. While anybody may ask to create an account in his or her name, the lender has the right to do so only after being confident in the customer's identification.

A consumer begins a connection with a banker by establishing an account with them. This relationship's unique characteristics put many duties on the banker. Therefore, he should use caution when creating an account in his name, while the bank has the right to do so if it is confident in the customer's identification. The norm among banks was to have a new client referred by someone who already has an acceptable bank account with the bank or by a staff member who is well acquainted with him prior to the adoption of "Know Your Customer" rules by the RBI. A current account holder's introduction was chosen by the majority of institutions. When fraud occurred in an account, different banking processes led to confusion and even financial loss for the bank since accounts weren't opened "properly" introduced. If a new resident in that location, a new client would similarly have trouble opening an account. The RBI has ordered all banks to follow KYC criteria in order to solve all of these issues and simplify the customer knowledge process.

CONCLUSION

In conclusion, effective corporate governance procedures are essential to an organization's long-term performance and viability. It is a strategic requirement that promotes trust, transparency, and ethical business practices rather than solely a compliance activity. By adopting good governance, businesses may foster an environment of excellence, draw in investment, and have a beneficial impact on the economy and society as a whole. But putting into practice strong corporate governance is not without difficulties. The organizational structure, decision-making procedures, and board makeup may all need to be significantly altered in order to implement governance best practices.

The seamless transition to better governance practices might be hampered by resistance to change and entrenched interests. Companies are strongly encouraged to follow excellent governance practices by regulatory frameworks and corporate governance regulations. Regulators provide a road map for businesses to follow by putting out precise rules and requirements, which reduces information asymmetry and ensures a fair playing field.

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CHAPTER 7

A STUDY ONRELATIONSHIP AS DEBTOR AND CREDITOR

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ABSTRACT:

The relationship between debtors and creditors forms the foundation of financial transactions, credit arrangements, and the functioning of the financial system. This paper examines the nature of this relationship, the rights and obligations of debtors and creditors, and the legal framework governing their interactions. By analyzing case studies and relevant literature, this study sheds light on the dynamics of debtor-creditor relationships, the impact of default and debt restructuring, and the importance of fair and balanced creditor-debtor rights protection. The findings provide valuable insights into the intricacies of this essential financial relationship and its significance for both individuals and institutions. It is a critical component of the financial ecosystem, facilitating economic activities and supporting investment and consumption. Debtors, who borrow funds, and creditors, who lend them, enter into contractual agreements that outline the terms and conditions of the borrowing arrangement. This relationship is often governed by legal and regulatory frameworks that seek to protect the rights and interests of both parties.

KEYWORDS:

Accounts Payable, Bankruptcy, Collateral, Credit Terms, Credit Limit, Creditor Rights, Debtor Obligations.

INTRODUCTION

The banker takes on the role of a debtor when creating an account. Since the money given to the banker constitutes a debt owed by him to the client, he is neither a depository or trustee of the customer's funds. A banker won't take the depositors' money under certain circumstances. Legally, the consumer is lending the banker the money they have placed with them, and the banker may utilize it anyway he sees fit[1], [2]. The banker is obligated to pay the loan as and when demanded by the creditor, who has the right to ask for his money back from the banker. However, it is not required that the return be done using the same coins and currency notes. Naturally, the payment must be paid in the nation's legal tender currency.As long as there is a credit balance on an account, the depositor is still his banker's creditor. However, he does not get any charge over the banker's assets and continues to be an unsecured creditor. Since the Deposit Insurance and Credit Guarantee Corporation agrees to protect the savings up to a certain level, the risk to the depositor has been reduced since the establishment of deposit insurance in India in 1962.Once the client's account is overdrawn, the banker's relationship with the customer is reversed. When a client takes out a loan from a banker, the banker becomes that customer's creditor and remains in that position until the debt is repaid. A banker becomes a secured creditor of his client since the loans and advances he makes are often backed by the borrower's real property[3], [4].

Even though the relationship between a banker and his client is primarily one of a debtor and a creditor, it varies from one that arises from regular commercial obligations in the following ways: Creditors must make payment demands. Ordinary commercial debt is paid by the debtor on the due date, sooner, or whenever the creditor requests it in accordance with the contract conditions. The debtor or banker is not compelled to reimburse the money on his

own initiative in the event of a deposit in a bank, however. It is essential that the depositor make a suitable claim for the payment of the deposit. This distinction arises from the fact that a banker is not a typical debtor; instead, he takes deposits with the extra responsibility of honoring his customers' checks. Some of the depositor's checks may not be honored if he returns the money on his own initiative by closing the account, which might also be bad for his reputation[5], [6]. Furthermore, the deposits are repayable on demand or in another manner in accordance with the legislative definition of banking. In addition to his desire to gain money, the depositor also does it for his own convenience. Therefore, the creditor's demand is necessary in order to get the returned funds. As a result, a customer's deposit with his banker is quite different from an ordinary loan. appropriate demand location and time. The creditor must make their claim in the appropriate location and at the appropriate time, as directed by the bank. For instance, when a branch receives a bank draft or traveler's check, it agrees to pay it back at that branch or any other branch of the bank. A suitable request must be made. Deposits may be withdrawn in accordance with the legislative definition of banking, whether by check, draft, order, or other means. According to standard practice among bankers, it indicates that a claim for a repayment of deposited funds must be made by a check or an order. To put it another way, the demand shouldn't be made orally, over the phone, or in any other way.

As TrusteeBanker

A banker often owes his client money for the deposits the latter made, although in certain cases he also serves as a trustee. For the benefit of another person known as the beneficiary, a trustee retains money or other assets and carries out certain tasks. For instance, the banker serves as the customer's trustee if the client puts stocks or other assets with him for safekeeping. The valuables placed with the banker remain the property of the consumer. As a result, the banker's status in law as a trustee is different from that of his customer's debtor. In the first scenario, the funds or papers he has are not considered his property and cannot be distributed to his general creditors in the event of a liquidation.

Depending on the specifics of each case, a banker's status as a trustee or a debtor is decided. He behaves as a debtor if he performs in the regular course of his business without the customer's explicit guidance. The banker's position will be established by determining whether the amount was really debited or credited to the customer's account or not in the event of money or bills, etc., placed with the bank for a specified purpose. For instance, in the event of a check delivered to another banker for collection, the receiving banker first serves as a trustee until the check is realized and credited to his customer's account, at which point he becomes the debtor on the account. The money realized after the collapse of the bank would belong to the client and cannot be shared among the general creditors of the bank if the collecting bank fails before the payment of the check is actually received by it from the paying bank.The bank will continue to be a debtor of its customer for the amount that was not taken out of or debited from his account to carry out his specific instruction, however, if the customer instructs his bank to purchase certain securities out of his deposit with the latter and the bank fails before making such purchase[7], [8].

The exact instructions provided by the farmer on the intended use of the funds or documents entrusted to the banker by the latter determine the relationship between the banker and his client as a trustee and beneficiary. The Supreme Court said in New Bank of India Ltd. vs. Pearey Lal that in the lack of more proof, a person depositing money into a bank—whether or not that person is a constituent of the bank—may be assumed to have done so in order for the money to be kept as a banker would typically hold the money of their constituent. The bank

does not so become a trustee for the amount paid if no particular instructions are provided at the moment of payment or subsequently, even if the money is kept in a Suspense Account.

No trust is established in respect of any shares that the borrower transfers to the banker as collateral security, and the bank's role remains that of a pledge rather than a trustee, provided that the transfer is properly recorded in the accounts of the issuing business. After rendering the aforementioned decision, the Delhi High Court noted that a trustee is often not permitted to dispose of or usurp trust property for his advantage in New Bank of India vs. Union of India Section 51 Company Case, p. 378. "In the current instance, the lender was permitted to sell the shares and use the proceeds to reduce the loan balance in the event that the debtor defaulted. When the debtor settles the bank's outstanding debts, the banker is only then obligated to hand back the shares.

DISCUSSION

Banker As a Lesser/Lessee

The "Transfer & Property Act's Section 105 addresses lease, lesser, lessee. The banker and customer relationship between the lessor and lessee is valid in the case of safe deposit box accounts. Customers of banks may rent safe deposit boxes from them. In exchange for paying rent, banks provide their locker account holders the ability to use the property for a certain amount of time.

Agent Banker

For the convenience of his clients, a banker serves as their agent and carries out certain agency tasks. For instance, he purchases or sells stocks on the client's behalf, collects checks for the client, and pays the client's numerous debts, such as. premium for insurance, etc. The scope of these agency roles has expanded significantly, and banks now provide a broad variety of agency services. For instance, several banks have created Tax Services Departments to handle their clients' tax issues.

Requirements of a Banker

Although a banker's relationship with a client is primarily one of debtor and creditor, or vice versa, some aspects of this connection put extra duties on the lender[9], [10].

Obligations to Pay the Checks Back

A banker's deposits are his obligations, which must be repaid immediately or in another way. Therefore, the banker is required by law to honor his customer's checks in the normal course. According to Section 31 of the Negotiable Instruments Act of 1881, the drawee of a check who has adequate money belonging to the drawer in his possession and are legitimately applicable to the payment shall reimburse the drawer for any loss or harm brought on by such a default.

Obligation to Protect Account Confidentiality

The customer's account in the banker's books details all of his financial transactions with the latter and reflects the actual condition of his financial situation. The consumer may suffer damages and damage to his reputation if any of this information become public knowledge. Therefore, the banker has a duty to use the greatest caution in maintaining the privacy of his clients' accounts. By maintaining secrecy, the bank agrees to refrain from disclosing its financial records to the general public or government authorities and to take all reasonable measures to prevent unauthorized disclosure of a customer's account information. The banker

is therefore required to take all necessary efforts and care to guarantee that no such information leaks out of the account books and to refrain from disclosing deliberately or unintentionally any information about his customer's accounts to a third party.

This responsibility also applies to the nationalized banks in India. They are specifically required to "observe, except as otherwise required by law, the practices and usages customary among bankers and in particular not to divulge any information relating to the affairs of the constituents except in circumstances in which it is, in accordance with law or practices and usages or appropriate for them to divulge such information," according to Section 13 of the Banking Companies Act of 1970.

Thus, under the following situations, the usual norm regarding the confidentiality of client accounts may be waived:

1. Where such disclosure is required by law; and
2. When lenders' customs and procedures allow for such disclosure.

Only when it is specifically stated: Disclosure of Information mandated by Law, would a banker be justified in providing information regarding his customer's account on fair and appropriate circumstances. When the law specifically mandates it, a banker has a legal responsibility to provide information about his customer's account. In order to comply with legal obligations, the banker would consequently be justified in releasing information:

According to the 1961 Income- Tax Act. According to 131, the income tax authorities have the same authority to compel the attendance of any person, including any offer of a banking company or any offer thereof, in order to provide information about any points or matters that the income tax authorities believe will be helpful for or relevant to any proceedings under the Act. Section 285 of the Income-tax Act, 1961, requires the banks to provide the Income-tax Officers with the names and addresses of all persons to whom they have paid interest exceeding "400 while mentioning the actual amount of interest paid by them. This gives the income-tax authorities the authority to request the information they need from the banker for the purpose of assessing the bank customers.

According to the 1956 Companies Act. All officers, other employees, and agents of the company must produce all books and papers of, or relating to, the company, which are in their custody or power, and otherwise to give the Inspector all assistance in connection with investigation which they are reasonably able to give, when the Central Government appoints an Inspector or to investigate the affairs of any joint stock company under 235 or 237 of the Companies Act, 1956.

Therefore, the lender has a duty to give all information about the firm but not about any other customers in order to conduct this examination. according to the Banker's Books Evidence Act of 1891, which was a court order. The banker is required to comply with a court's order to reveal information about a customer's account. The Banker's Books Evidence Act, 1891, states that certified copies of the entries in the banker's book are to be treated as sufficient evidence and that the production of the books in the Courts cannot be forced upon the bankers in order to avoid the inconvenience that would likely result from the bankers attending the Courts and producing their account books as evidence. A certified copy of any entry in a banker's book will suffice as evidence if that banker is not a party to the lawsuit because Section 4 of the Act states that "a certified copy of any entry in a banker's book shall in all legal proceedings be received as prima facie evidence of the matters, transitions, and accounts therein recorded in every case, and to the same extent, as the original entry itself is now by law admissible, but not further or otherwise." The Court also has the authority to

permit any party to a legal case to see or make copies from the banker's records for the benefit of the legal proceeding.

according to the 1934 Reserve Bank of India Act. The Reserve Bank of India obtains combined credit information from the banking firms as well as credit information that is collected directly from the banking businesses. Under Reserve Bank Rule 45-B, every banking firm is required to comply with certain legal requirements. However, the Act stipulates that the Reserve Bank's Credit information sent to the financial businesses must be kept private. The Reserve Bank of India Act, 1974 gave the banks legal protection and allowed them to freely share credit information among themselvesaccording to the 1949 Banking Regulation Act. Every banking organization is required by law to file an annual report listing all such accounts in India that have not been used for ten years. Banks must provide information on the deposits that are to the credit of each such account. according to the 1958 Gift Tax Act. The Gift Tax Authorities are granted comparable authority under Section 36 of the Gifts Tax Act of 1958 as they are under Section 131 of the Income Tax Act.

Police are notified. The banker must provide the account records to the police under Section 94 of the Criminal Procedure Code. For the sake of such investigations, the police investigators may also go into the banker's books. Under Section 10 of the Foreign Exchange Management Act of 1999. 'Authorized persons' in foreign exchange are banking institutions that conduct foreign exchange operations. The Reserve Bank and the Directorate of Enforcement officers are authorized to investigate any Act violations under Sections 36, 37, and 38 of this Actin accordance with the 1964 Industrial Development Bank of India Act. The Industrial Development Bank of India has been authorized to collect information from or provide information to the Central Government, the State Bank, any subsidiary banks, nationalized banks or other scheduled banks, State Cooperative Bank, State Financial Corporation credit information, or other information that it may deem useful for the purpose of effectively carrying out its functions since the addition of sub- 1A in 29 of this Act in 1975. The Reserve Bank of India Act, 1934's definition of "credit information" shall apply to the word "credit information."

The banker's practices and usages authorize disclosure. Under the following conditions, some information may be disclosed according to bankers' normal practices and usages: with the customer's express or implied consent. With the customer's permission, the banker will be justified in sharing any information about the account. The implicit provision of the agreement between the banker and his client is that the former enters into a qualified responsibility with the latter to refrain from releasing information about his affairs without his approval. The customer's approval may be explicitly stated or inferred. Express permission is required whenever the client requests in writing that the bank advise his agent, employee, or consultant of the account balance or any other information. The banker would be right in giving this individual exactly the information that was necessary and nothing more. It should be mentioned that the banker must use extreme caution while providing the necessary information to the client or his designated representative. For instance, if a client asks a question verbally at the counter, the bank staff shouldn't talk louder so that other customers may hear them. The consumer must also get their passbook by a messenger with a closed cover. In general, a banker won't provide such information to a client over the phone unless he can identify the person speaking; otherwise, he assumes the risk of doing so.

Under some conditions, the banker is allowed to reveal relevant information with the customer's implicit agreement. For instance, if the banker authorizes a loan to a client with a third party's guarantee and the latter queries the banker about the customer's account. The client is assumed to have granted his implicit approval for such disclosure by providing the

name of the guarantor, which gives the banker the right to do so. The banker must accurately and really provide all pertinent facts.Similar to the previous example, if the customer gives the banker's name to a third party for the purpose of a trade reference, not only does the customer expressly consent to the disclosure of relevant information, but the banker is also required to do so, and failure to do so will negatively impact the customer's reputation.

Even when the consumer and the enquirer are extremely closely linked, implied permission should not always be assumed. For instance, a banker shouldn't tell a woman's spouse about the status of her account without the client's specific permission. For the purpose of legally safeguarding his own interests, the banker may divulge the status of his customer's account. For instance, sharing of pertinent information to the guarantee or the solicitor becomes required and is entirely justifiable if the banking has to collect the debt from the client or the guarantor.

Financial Reference

A banker will often ask the right questions about their clients, their sureties, or the people who take their bills from other bankers. This is a common practice among bankers and is justifiable on the grounds that it is assumed that the consumer has given their implicit approval. By convention and practice, the banker provides any required facts or opinions on the client in confidence. However, the banker should use extreme caution when responding to such questions.

The banker must take precautions. When responding to questions concerning a client's status and financial situation, a banker should take the following safety measures into consideration: The banker should base his disclosure of his view on the precise condition of the customer as is apparent from his account. He should disregard any rumors about his customer's creditworthiness. Additionally, it is not anticipated that he would seek out other sources to provide the data. His assessment should be supported by the client's banking interactions history. Without divulging the specifics, he should offer a basic overview of the client's account or financial situation. He should use extreme caution while conveying his overall view, speaking neither too highly nor too badly about the client. In the first scenario, he damages the customer's reputation; in the second, he may deceive the inquirer. If an unsatisfactory opinion is required, the banker should express it in generic words to avoid coming out as disparaging. It should serve as a warning to the inquirer, who should draw his own conclusions via inference and do more research if he feels the need.

He shouldn't intentionally mislead a fact and should provide the requested information honestly and without bias. In such circumstances, he is liable to both the inquirer and his own client. Obligation to reveal: When a banker has an obligation to release information to the public, they may legitimately do so when it pertains to a customer's account. In actuality, this criterion has been ambiguous, which has caused problems for the banks. Therefore, the Banking Commission proposed that a statute be amended to specify the situations in which banks must disclose information that is in the public interest.When a bank receives a request for information from a government official regarding the commission of a crime and the bank has reason to believe that a crime has been committed and that the information in the bank's possession may help identify the offender, when the bank believes that the customer is engaged in activities that are harmful to the interests of the nation, and when the bank's records show that the customer is breaking any law, a bank is obligated to cooperate with the request.

Risks Associated with Unjustified and Unwarranted Disclosure. Except in the situations mentioned above, the banker's duty to maintain the privacy of his customers' accounts

continues long after the account is closed. If a banker unjustifiably exposes information, he is accountable to his client and the third party in the following waysobligations to the client. The client has the right to take the banker to court for the losses he sustained as a consequence of the revelation. In the event that the consumer has sustained substantial damages, a significant amount may be demanded. Such harms could be sustained as a consequence of the banker's unjustified disclosure of any information or expression of a vehemently negative view of the clientdebts owed to other people. The banker is also liable to the third parties who received the information if the third party asks the banker to reimburse him for any damages he incurred as a result of relying on the information. However, the lender will only be held accountable if it can be shown that it actively and knowingly provided incorrect or overstated information. As a result, he will be held accountable to the third party for the fraud accusation but not for unintentional misrepresentation. He won't be accountable to a third party for simple carelessness.

The following are some general guidelines in this regard:

A banker who responds to a reference from another banker on behalf of the latter's client owes that client a responsibility of candor. If a banker provides a reference in the form of an opinion or short statement on creditworthiness, it does not accept and no more duty is demanded of it than that of providing an honest response. The banker cannot be held accountable for carelessness with regard to the reference if it explicitly states in its reply that it is not responsible.

Passbook and Account Statement

Although the Pass Book provides a real and verified record of the customer's bank account, there is disagreement about the accuracy of the entries in the Pass Book. When entering information in the Pass Book, the banker could make mistakes. Therefore, the issue of whether the Pass Book is definitive evidence of the veracity of the entries made within arises.

Based on Sir John Paget

The Pass Book should be accepted as serving the intended purpose of constituting a conclusive and uncontested record of transactions between the banker and the consumer. All entries, at least those related to the customer's debt, should be considered final and not subject to later reopening, at least not to the banker's benefit, once the client has had a full chance to examine them.

In reality, this point of view is based on the assumption that the customer has a duty to frequently check the entries made in the Pass Book, and that if he discovers any errors, he must notify the banking of them within a reasonable amount of time. If he doesn't and says nothing after receiving the Pass Book, it is assumed that the consumer agrees that the entries are accurate. It was determined in some legal rulings, particularly in Morgan v. United States Mortgage and Trust Co. and Devaynes v. Noble, that the customer's negligence or failure to check the accuracy of the entries in the Pass Book constitutes an error on his part and serves as evidence of a settled and accepted account. Numerous other legal rulings in England and India have refuted the implication that the buyer has a duty to inspect the Pass Book. We might use the instances of Chatterton v. London and Country Bank and Keptigalla Rubber Estate Co. v. National Bank of India as references.

The entries in the Pass Book cannot be regarded as irrefutable confirmation of their correctness and as settled accounts in the absence of such an obligation on the part of the client. The client is qualified to flag out any errors or omissions in the Pass Book whenever

he comes into possession of knowledge of them. Therefore, the entries in the Pass Book do not constitute the definitive proof of their authenticity or completeness. The entries that were incorrectly entered or omitted might benefit the consumer or the banker. Therefore, any party may point up any errors or omissions and request that they be corrected.

Effect of Entries to the Customer's Advantage

A customer's account may sometimes display a credit balance that is greater than the actual balance owing to duplicate credit entries, higher-than-expected amounts for such entries, or the absence of any debit entries. The Pass Book was created by the banker, hence the entries within may be used as evidence against the banker. This is the legal position of the banker and his client. The client has a legitimate right to take these entries at their value and act accordingly. If the Pass Book balance is larger and the customer withdraws that amount, considering it as his own, and then spends it, that balance becomes his property. The sum that was incorrectly paid to the client cannot be recovered by the banker. But the consumer must demonstrate that he took these actions based on the accuracy of the balance in the Pass Book and was unaware of any errors therein, and that he changed his position by spending the same amount.

CONCLUSION

In conclusion, financial transactions and economic activity depend on the connection between debtors and creditors.

Financial stability, economic progress, and social well-being are all facilitated by an effective debtor-creditor relationship built on fair and open business practices. Societies may foster a strong financial system that benefits all stakeholders by defending the rights and obligations of both parties and preserving a balance between debtor help and creditor protection. Striking a balance between defending the interests of creditors and avoiding debtor abuse is crucial. While creditors have a right to recover their investments, they must use legal and moral methods of debt collection. Debtors may experience financial hardship as a result of an excessive debt load or harsh collection tactics, which might also jeopardize the stability of the whole financial system. Additionally, fostering economic development and eradicating poverty depend on people having access to credit and financial inclusion. Financial stability and equitable economic growth may be promoted through policies that encourage responsible lending and guarantee that disadvantaged people have access to credit on fair terms.

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CHAPTER 8

EFFECT OF THE CUSTOMER SIGNING CONFIRMATION SLIPS

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ABSTRACT:

Customer signing confirmation slips, a common practice in various transactions, play a significant role in verifying and documenting customer consent. This paper examines the effect of customer signing confirmation slips on businesses, customers, and the legal landscape. By analyzing case studies and relevant literature, this study sheds light on the benefits of these slips in mitigating disputes, improving customer trust, and ensuring compliance with regulatory requirements. The findings provide valuable insights into the importance of these slips as a crucial element in establishing a transparent and accountable customer-business relationship.Customer signing confirmation slips have emerged as a valuable tool in various industries to confirm customer consent, validate transactions, and minimize disputes. By obtaining customers' signatures on these slips, businesses can provide tangible evidence of the agreed-upon terms and conditions, ensuring a transparent and accountable relationship with their clients.

KEYWORDS:

Account Management, Asset Management, Banking Services, Business Loans, Checking Accounts, Commercial Banking.

INTRODUCTION

The Pass Book alone does not prove that an account has been settled. Banks now regularly offer their clients confirmation slips that reveal the account balance as of a certain date. The consumer acknowledges and confirms such balance by signing the confirmation paper. In Essa Ismail v. Indian Bank Ltd., the Kerala High Court reviewed the legal implications of a consumer signing the confirmation sheet[1], [2]. The Court stated that "unless there is evidence to show that the practice or the custom indicated a stated or settled account, the customer is not precluded from questioning the debit entries in a Pass Book but, when confirmation slips are sent and signed by the customer, he will be bound by the debits made." The client or his authorized representative signed the confirmation papers in this instance. Since they were binding, they could not be contested by him or his heirs. Any error or omission must be pointed up to the client by the banker, who has a duty to fix it as soon as he becomes aware of it. The consumer is not permitted to remove the extra amount that was incorrectly credited to his account upon receiving such information. However, the banking must honor the customer's checks that have been written and issued before serving him with notification of the error. If he acts, he will be responsible for the fallout from their improper dishonor[3], [4].

Effect of Incorrect Entries in the Banker's Favor

When a credit entry is completely missing, expressed incorrectly, or any debit entries are made incorrectly in the customer's account. Such entries work against the client and benefit the lender. The consumer has the right to have the error fixed as soon as he notices it. Since the customer is not required to routinely and repeatedly review the Pass Book, this right of the customer does not expire even if the customer returns the Pass Book without objecting to any entries or if he stays mute after receiving the Pass Book. He has the right to get back the

money that was incorrectly deducted from or never deposited to his account. However, there is a restriction on the customer's ability to get the error corrected. It will be considered carelessness on the part of the consumer if he learns of the check forging and fails to notify the bank. Therefore, the consumer won't be able to get back the money the banker spent on the fake check[5], [6].

The most crucial thing to remember is that the customer's carelessness should have been genuinely shown. The Supreme Court ruled in Canara Bank vs. Canara Sales Corporation and Others that the bank's debit entries should be regarded as final and should not be subject to reconstruction to the bank's harm after giving the client a sufficient chance to see the bank's records. The bank may only avoid accountability if it can prove that the client knew about the forgery in the checks, according to the Supreme Court, which dismissed the appeal. Long-term inaction cannot provide a sufficient defense for the bank to evade its responsibility. The Court additionally ruled that a client had no need to notify the Bank of fraud perpetrated against him that he was not aware of. Additionally, failing to see fraud or other irregularities for an extended period of time cannot be used as a justification to dismiss a customer's claim for damages[7], [8].

It is important to mention in this context that the client often has this responsibility under the current account regulations of the banks. For instance, when a customer receives a pass book or statement of account, the entries should be carefully reviewed, and any errors or omissions should be reported right away to the bank. If not, the return of the pass book or rendering of the statement of account to the customer will be regarded as settlement of the account and acknowledgement of its accuracy up to that point. The Bank will not be liable for any losses brought on by failing to take these steps. Similar to this, the State Bank of India mandates that the constituent thoroughly review the entries and promptly bring to the bank's notice any inaccuracies or omissions that are found. If this precaution is ignored, the Bank is not liable for any losses that result.Thus, it is clear that the client has a responsibility to carefully review the entries under the current account regulations, which serve as the foundation for the contract between the banker and the customer. The banker is not responsible for any losses that result from his carelessness in carrying out this job.

In State Bank of India vs. Shyama Devi, the Supreme Court evaluated the responsibility of a banker to his client in the event that one of his employees engages in embezzlement and creates fraudulent entries in the Pass Book. The Supreme Court established the following legal principle that governs an employer's responsibility for the loss brought on by an employee's misdeed or negligence: "The employer is not liable for the act of the servant if the loss or damage arose without his actual fault or privity or without the fault or neglect of his agent or servant in the course of his employment[9], [10].

The customer and the banker must exercise prudence.

1. The Pass Book must be provided by the client to the bank on a regular basis for recording the appropriate information, allowing the customer to catch any errors right away. If a savings bank pass book is maintained by the bank for updating, the Reserve Bank has instructed the banks to simply provide the tenderer with a receipt.
2. The accountant or other responsible official of the bank must initial the Pass Book after verifying the correctness of the amount on the day of recording the entries; otherwise, the client will be allowed to act on it if it is incorrectly stated.
3. The client is required to compare the entries to his own records, including the account books and the pay-in slips, checks, and other counterfoils. If any accuracy is

discovered, the consumer must notify the bank right away so that the error may be fixed.

4. The lender shall take precautions to preserve the confidentiality of the Pass Book's contents before providing it to the client. Sending the Pass Book in a closed cover is required.

DISCUSSION

Garnishee Order and Attachment Order

On receiving a court order, known as a garnishee order, issued according to Order 21, Rule 46 of the Code of Civil Procedure, 1908, a banking is no longer required to honor the customer's checks. If a debtor doesn't pay his or her creditor what is due, the latter may ask the court to impose a Garnishee Order on the debtor's banker. By preventing both the creditor and the debtor from collecting on the obligation, such an order attaches debts that are not secured by negotiable instruments. As a result, the customer's account with the banker is stopped, and the banker is obligated to refrain from making any payments from the relevant account after receipt of the Garnishee Order. The debtor whose funds are frozen is known as the judgement-debtor, the creditor who requested the order is known as the judgement-creditor, and the banker who is the judgement debtor's debtor is known as the Garnishee.

Two components make up the Garnishee Order.

First, the court orders the banker to cease payments from the judgment debtor's account. This kind of order, known as an Order Nisi, also asks the banker to provide justification for why the money in the specified account shouldn't be applied to the judgment-creditor's claim. The banker is not permitted to pay his client the sum due on the day the Order Nisi was received. Therefore, he must notify the client right once to prevent the dishonor of any checks he has issued. The Court may issue a financial order known as an Order Absolute after the banker provides any necessary explanations, in which the full account balance or a specific dollar amount is attached and is to be given to the judgment-creditor. The banker is required to send the garnished money to the judgment-creditor upon receipt of such an order. Following that, the banker's obligations to his client are satisfied to that degree. After the judgment-creditor has received payment as instructed by the court, the suspended account may be reinstated. In this regard, it is important to keep in mind the following:

The sum that the order attached. The amount of the judgment debtor's bank account may be garnisheed, regardless of the amount that the debtor owes to the creditor, or simply the stipulated amount that is necessary to cover the creditor's claim against the judgment debtor. In the first scenario, the customer's whole bank account is garnished or attached, and the banker will be held responsible for any payments made from it that exceed the total of the creditor's debt plus the cost of the legal processes. For instance, the Court has attached the full $10,000 to the credit of X, the major debtor, even though he only owes his creditor Y $6,000. The lender will be held accountable for disobeying the court's ruling if he honors the client X's check to the tune of $5,000 while also decreasing the amount to $5,000. On the other hand, he won't be held responsible for the customer's cheques if he returns all of them after receiving the Garnishee Order.

It should be emphasized that the Garnishee Order does not apply to the amount of a check designated as a good for payment by a bank since the banker assumes responsibility for paying the cheque's amount. On the other hand, if the judgment debtor provides the bank notice of his intention to withdraw, it does not constitute a withdrawal. These money will be

covered by the Garnishee Order. In the second instance, the banker may pay the client any surplus funds if just the order's stated amount is attached.

The banker is prohibited from paying the debts that are already due or that are upcoming due by the court's ruling. The term "accruing due" refers to debts that are not yet due but for which there is still a legal duty to pay. The banker owes the consumer nothing if the account is overdrawn, hence the court order is no longer valid. In relation to the unused component of the overdraft or cash credit facility granted to its client, a bank is neither a garnishee, nor can it be stated that the unused portion of the facility constitutes money owed by the customer to the bank. The Karnataka High Court rendered the aforementioned ruling in Canara Bank v. Regional Provident Fund Commissioner. In his instance, the Regional Provident Fund Commissioner sought reimbursement from the defaulters' bankers for the arrears of provident fund contributions using the cash credit facility's used share. The High Court denied this claim, stating that since the bank is a creditor rather than a garnishee of the unutilized component of the cash credit. For instance, PNB permits it as a client to overdraw up to $5,000. Since there is no obligation owed to the banking, the customer's real withdrawal cannot be garnisheed. It only reflects the potential debt owed by the consumer to the bank.

Of course, before the amount to which the Garnishee Order applies is decided, the banking has the authority to deduct any obligation owing by the client. But it's crucial that the customer's debt be genuine and not just hypothetical. For instance, if the judgment debtor had an unsecured lending account with a value of $5,000 when the garnishee order was received, that account might be used to offset the credit amount in the other account. However, such set off is not allowed if the obligation owed by the judgment-debtor is just contingent and not real, that is, it has not yet become payable. In the event that the acceptor does not pay the bill by the due date, for instance, and A, the judgment-debtor, has discounted a bill of exchange with the bank, A may be liable to the bank. Similar to this, if A has guaranteed a loan that B has obtained from the bank, A's responsibility as a surety does not become a problem until and until B actually defaults on repaying the loan's principal. Additionally, the banker is allowed to merge two accounts in the customer's name under the same right. If there is a credit balance in one account but a debit balance in the other, the net balance is calculated by subtracting the former from the latter.

The sum that is to the primary debtor's credit at the moment the garnishee order is placed on the banker is attached by the garnishee order. In this regard, it should be noted that the Garnishee Order does not apply to the following amounts: amounts of checks, drafts, bills, etc., sent by the customer for collection, which are still unpaid at the time the order is received; sale proceeds of the customer's securities, such as stocks and shares being sold but not yet received by the banker. In these situations, the banker serves as the customer's agent for the purpose of collecting checks or selling securities, and the amounts related to those actions are not considered debts owed by the banker to the customer until those funds are actually received by the banker and credited to the customer's account.

However, the position of the banker changes if the sum of such uncleared checks, etc., is credited to the customer's account, in which case the garnishee order is applied to the sum of such uncleared cheques. The amount so realized shall also be subject to the Garnishee Order, even though the required advice about realization of the check is received after the receipt of the Garnishee Order, if one branch of a bank sends its customer's cheque to another branch for realization and the latter collects the same from the paying banker prior to the first branch's receipt of the Garnishee Order. The court's decision in Gerald C.S. Lobo v. Canara Bank, case no. 71 Comp. In Cases 290, the Karnataka high court ruled that a branch that collects money on behalf of another branch should be regarded as the latter's agent and that

the realization of a check sent for collection by the other branch must be regarded as having accrued to the principal branch once it has been realized by the former. After the Garnishee Order has been issued on the banker, it cannot be used to seize funds placed into the customer's account. A garnishee order has no future operation; it only affects the balance that is in effect at the moment the order is served. For this reason, bankers often create a new account in the name of the consumer. The banker's payments made before the order was filed on him are not covered by the Garnishee Order. However, if a banker receives a garnishee order when a check is being submitted to him for payment and the check has not yet been paid in full, the banker is required to suspend payment of the check, even if it has been passed for payment for payment. Similar to this, if a customer asks the banker to transfer money from his account and the banker has already made the necessary entries of such transfer in his books, but before the intimation could be sent to the other account-holder, a garnishee order is received by the banker, it will apply to the money that has been transferred by simple book entries because the transfer has no effect without proper communication to the person concerned.

The efficacy of the Garnishee Order relies on whether the time limit for returning the dishonored checks to the collecting banker has passed or not in the case of checks delivered to the paying banker via the clearing house. Each drawee bank is allowed a certain amount of time in which to return any unpaid checks to the collecting bank. The bank may return the check as dishonored if the specified period of time has not passed and a garnishee order has been received in the meantime. However, if the order is received after that period has passed, the paying banker is assumed to have made the payment, and the order will not be applied to that sum.The Garnishee Order may be issued on the head office of the relevant bank, and it will be considered adequate notice to all of its branches. The Garnishee Order is not applicable to: Money kept overseas by the judgment-debtor; and Securities held in the banker's safe custody. The Head Office is given enough time to inform all affected branches, nevertheless. The banker will not be held liable for any payments made out of the customer's account by the branch office prior to receiving such notification.

Garnishee Order Application to Different Types of Accounts

Shared Accounts

Two or more people register a joint account under their respective identities. The joint account cannot be linked if just one of them is a judgment debtor. However, the joint account may be attached if both or all of the joint account holders are joint judgment debtors in any pending legal actions.
For instance, B cannot ask for the attachment of a joint account in the names of A and C if A owes B $1,000 in personal debt. However, if A and C are equally liable for the debt, their joint account might be frozen. However, the opposite is also conceivable, i.e., if a debt is jointly taken by two or more joint judgment holders, each of their individual bank accounts may be frozen since they are all equally and severally accountable for the debts that were taken jointly.

Collaboration Account

Because partners' responsibility is both joint and several, personal accounts of the partners may also be attached in addition to accounts held in the business's name in the event that a partnership firm incurs debt. The opposite, however, is impossible. Only the partner's personal account, not the firm's or the other partners', may be attached if a partner is a judgment debtor.

Trust Investing

For the benefit of the beneficiary, a trustee holds the money or assets of another. The Trustee cannot use an account created in his own name to settle his personal debts while acting in that role. In order to suspend payments from the account and give the Trustee instructions, the banker must first tell the court that the account is a trust account.

The Attaching Creditor's Rights

The attaching creditor turns becomes a secured creditor when the garnishee deposits the attached sum in court. The Sholapur Spinning and Weaving Co. v. Rethatched Mohanlal Surana, p. The High Court ruled that Ltd.

"While the attachment is only by a prohibitory order, the attaching creditor has no rights in the property attached; however, once the property or moneys come into the Court's possession, the attaching creditor will have those rights." Even more so when the person whose money was garnished paid the court and received a full discharge, the court does not keep the money for the debtor.

Income-tax authorities have issued an attachment order

If a banker's client fails to pay the tax that is due from him, the income-tax authorities may attach the credit balance in the client's account. As a result, the order of the Income-Tax Officer may attach any debts due and payable. According to Section 226 of the Indian Income- Tax Act, 1961, "any person from whom money is due or may become due the assessed or any person who holds or may subsequently hold money for an or account of the assessed, to pay to the Income-Tax Officer an amount equal to or less than the amount of such arrears." Even if the notice was issued for a single account, balances in joint accounts may also be attached. Until the opposite is shown, the portion of the joint holders in such an account will be deemed to be equal. Therefore, regardless of whether a joint account is due to "either or survivor" or not, the amount to the credit of a joint account may be attached pro rata.

Every person to whom such notice is made is obligated to comply with such notification as a result. For the purposes of any entry, endorsement, etc., before payment is made, it should not be required for any pass book, deposit receipt, or other document to be provided in the case of a banking organization. After making the necessary payments in accordance with this, the banker will be released from all obligations to the assessed to the extent of the money they have already paid. However, if he doesn't pay, he will be considered to be in default for the assessed amount stated in the notice, and additional action may be taken to recover the debt if necessary. Therefore, the banker must obey this directive. To that degree, he is less obligated to his client.

Banker's Rights

Appropriation Rights

A banker will often accept payments from clients as part of his routine operations. The issue of the appropriate use of the money that is later deposited by him naturally arises if the latter has many accounts or has borrowed money from the banker on multiple occasions. The Indian Contract Act, 1872 has clauses pertaining to the power of appropriation of payments in such circumstances in sections 59 to 61. In accordance with 59, this power of appropriation belongs to the debtor, who pays his creditor, to whom he owes many obligations. He has the option of using the money. a clear indication, or in situations where it is implied, that the

money would be used to repay a specific obligation. If the creditor accepts the payment, the funds must be used appropriately. As an example, A owes B a number of obligations, including $1,000 on a promissory note that is due on December 1st, 1986. He doesn't owe B any other loan for that amount. A pays B $1,000 on December 1st, 1986. The money received will be used to pay off the promissory note. The right of appropriation belongs to the creditor if the debtor doesn't indicate or if there are no other conditions that show to which debt the payment is to be applied. In addition, when no party makes any appropriation, the money must be used in discharge of each proportionally. He may apply it at his discretion to any legitimate obligation that is truly due and payable to him from the debtor.

In M/s. By Kharavela Industries Pvt. Ltd. v. Orissa State Financial Corporation and Others, the issue of whether the debtor's payment should be applied first to the principle or interest emerged in the lack of a provision in the loan agreement specifying how payments should be allocated. The Court decided that, absent a specific agreement to the contrary, every payment made by the debtor in the case of an interest-bearing obligation must be applied first to the fulfillment of the interest and then to the principal. If a client only has one account and often makes deposits and withdrawals, the credit entry will trigger the debit entry in the chronological sequence, as ruled in the infamous Clayton's Case. A subsequent item on the credit side will thus discharge or diminish the initial item on the debit side.

The debit entries are offset or adjusted by the credit entries in the account in the order they were made. The Clayton's case ruling has significant practical implications for bankers. When a partner of a business passes away, retires, or becomes bankrupt, the debt that was then owed to the firm is adjusted or offset by the later credit that was made to the account. As a result, the banker forfeits his ability to collect the obligation from the assets of a deceased, retired, or bankrupt partner. If the debt cannot be collected from the surviving partners, the banker may eventually incur a loss. Therefore, the banker shuts the existing account of the company and starts a new one in the name of the rebuilt business in order to avoid the application of the rule stated in the Clayton's case. As a result, the culpability of the dead, retired, or bankrupt partner, as the case may be, is established and he may be held accountable for it. Later contributions made by still-living; solvent partners will not be used to offset the debt.

General Lien Right

The power of universal lien is one of the significant privileges that a banker may exercise. Lien is the term used to describe the creditor's legal right to keep the assets and securities that the debtor owns until the obligation is paid in full. It grants the creditor the right to keep the debtor's security rather than the right to sell it. Such a privilege may be utilized by the creditor with regard to commodities and securities that the debtor has entrusted to him with the aim of keeping them as collateral for a debt that is due from him.There are two types of liens: general liens and specific liens. A artisan or someone who has invested their time, labor, and money in the items kept may exercise a special lien. In some situations, things are solely kept for a certain debt. For instance, a tailor has the right to keep the garments he makes for a client until the client pays the tailor's fees. The same applies to public transportation and maintenance facilities. A general lien, on the other hand, is applicable to all sums owed by the debtor to the creditor. Section 171 of the Indian Contract Act, 1872, grants bankers the right to a general lien and states that they may keep any goods that were bailed to them as security for a general balance of account in the absence of a contract to the contrary.

The Unique Characteristics of a Banker's Right of General Lien

In the absence of a contract that conflicts with the right of lien, the banker has a general lien on all commodities and securities that were entrusted to him in his function as a banker.

Therefore, he cannot use his right of general lien if the client has entrusted the banker with their goods and securities as a trustee or agent, and if the banker and the customer have an explicit or implicit agreement that conflicts with the banker's right of general lien. In other words, the lender cannot have a claim on the assets or securities if they are committed for a defined purpose. These rare instances are covered later on. A banker's lien is equivalent to an implicit promise since, as previously said, it only gives the creditor the right to keep the goods until the debt is repaid, not the right to sell them. The creditor has the right to sell in the event of a pledge8. A banker's right of lien extends beyond a simple lien. In the event that the client defaults, it gives him the authority to sell the products and securities. As a result, this kind of lien right is sometimes referred to as a "implied pledge." Thus, the banker gets the benefits of a pledge and may sell the securities after providing the client due notice.

The Indian Contract Act grants the banker the power of lien; as a result, no further agreement or contract is required for this reason. To be secure, the banker obtains a letter of lien from the client stating that the items have been given to him as collateral for a loan that he may get in the future and that he may use his lien rights over them. In the event of a client default, the lender is also permitted to sell the products. The second clarifies the purpose of handing the items to the lender in this way, making it less likely that the consumer would subsequently dispute it. On assets or other securities held in the borrower's name alone, not jointly with others, the right of lien may be used. For instance, the banker cannot utilize his power of general lien in respect of a debt due from a single person if the securities are held in the joint names of two or more people. If there is no agreement to the contrary, the banker may use his right of lien on the securities that are still in his possession after the loan for which they are pledged is returned by the client. In these situations, it is presumed implicitly that the client has re-offered the same securities as a cover for any other advance that was outstanding at the time or that was accepted afterwards.

As a guarantor for a client's duty, the banker is also permitted to utilize its general lien right and keep the security that the customer provided in exchange for a loan that was taken out for personal use and paid back. In the case Stephen Manager North Malabar Gramin Bank vs. Chandramohan and State of Kerala, the loan arrangement gave the bank permission to use the jewelry as collateral for any future or ongoing obligations as well. Due to the surety's joint and several culpabilities with the primary debtor, this liability fell within the purview of the aforementioned agreement clause.

A banker is permitted to keep the items bailed to him under Section 171 of the Contract Act in order to satisfy any other obligation owed to him, meaning any debt assumed before the debt for which the commodities were pledged as security. However, a right of possession needs to be included in a lien since a lien is a man's right to keep something that belongs to another but is in his possession. Prior to exercising that right, the party claiming a lien must be in possession of the goods, whether that ownership is real or constructive.

CONCLUSION

In conclusion, Confirmation slips with client signatures are a useful tool for building openness, responsibility, and trust in the customer-business relationship.

These errors not only reduce conflicts but also boost consumer trust and regulatory compliance.

Businesses may build strong ties with their clients by using efficient and well-designed confirmation slips, increasing their reputation and promoting long-term success.

However, it is critical for firms to properly integrate confirmation slips with client signatures. These slips must be functional and legally acceptable in order to function properly.

This requires using clear, unambiguous language, phrases that are simple to comprehend, and correct disclosure of pertinent information.

Additionally, while employing customer signing confirmation slips, firms must take data security and privacy issues into account. Customer data should be protected appropriately, and measures should be taken to guarantee that it is only used for legal reasons.

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CHAPTER 9

EXCEPTIONS TO THE RIGHT OF GENERAL LIEN

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ABSTRACT:

The right of general lien is a significant legal principle that allows a creditor to retain possession of a debtor's property until all outstanding debts are settled. However, certain exceptions to this right have been recognized in various legal systems to protect the interests of debtors and ensure fairness in commercial transactions. This paper examines the exceptions to the right of general lien, exploring their legal basis, scope, and implications for creditors and debtors. By analyzing case law and relevant legal literature, this study sheds light on the circumstances under which general lien may not be applicable and the rationale behind these exceptions. The findings offer valuable insights into the nuances of this crucial aspect of contract law and its impact on parties involved in credit arrangements.While the right of general lien is a powerful legal tool that empowers creditors to retain possession of a debtor's property until debts are fully satisfied, it is not without limitations. Several exceptions have been established to protect the rights of debtors and ensure fairness in commercial transactions.

KEYWORDS:

Assets Protection, Bank Vaults, Custodial Services, Deposit Boxes, Document Storage, Insurance Coverage.

INTRODUCTION

In his role as a banker and absent any agreement that would conflict with this power, a banker may use his right of lien on the goods that have been committed to him[1], [2]. As a result, none of the following situations allow for the exercise of the lien right:

Safekeeping deposits

When a client leaves his valuablessuch as securities, jewelry, papers, etc.with a banker for safekeeping, he appoints the banker as his bailee or trustee to guard against theft, fire, etc. It is assumed that any contract that conflicts with the lien right really exists. The money thus realized will not be subject to the right of general lien, for instance, if he instructs the banker to collect the profits of a bill of exchange upon its maturity and use them to fulfill a bill of exchange on his behalf.Similar to the previous example, if a customer gives a banker instruction to sell some shares at or above a certain price and those shares remain unsold, the banker cannot exercise his right of lien on those shares because they have been entrusted for a specific purpose, creating a contract that is incompatible with the right of lien[3], [4]. However, if the client does not specify a particular purpose, the banker may have a lien on invoices, checks sent for collection, dividend warrants, etc. The banker may use his right of general lien if the security enters his hands during the normal course of business. The general lien right changes to the particular lien right. Circumstances that demonstrate an implicit agreement at odds with the right of general lien nullify the banker's right of general lien. The Syndicate Bank provided a bank guarantee for $90,000 on behalf of its client in the case of Vijay Kumar v. M/s. Jullundur Body Builders, Delhi, and Others. Two properly discharged fixed deposit receipts were placed with the bank by the client as security, together with a letter indicating that the deposits would stay there as long as the bank was still owed money

from the customer[5], [6]. On the back of the receipt, the bank wrote "Lien to BG 11/80." The item on the back of the letter resulted in the right of a specific lien, i.e., exclusively in respect of the bank guarantee, which was objected to on the grounds that it gave rise to the bank's right of general lien on the fixed deposit receipt.The Delhi High Court dismissed the bank's argument, ruling that the customer's letter was on a standard printed form and that the lines written by a bank worker on the back of the deposit receipt were unambiguous and detailed. They are the deciding words that make clear what the persons involved were thinking at the moment. As a result, the written word is superior than the printed "word". Instead of being a general lien, the banker's right was considered to be a special lien.Securities were carelessly left with the banker. The papers or valuables that the client accidently or negligently leaves in the banker's custody are not subject to the banker's right of lien. Prior to receiving the loan, the banker is not permitted to use his right of lien over the securities that have been deposited with him as collateral [7], [8].

In trust held securities. In his capacity as trustee for the client's personal loan, the banker is not permitted to use his general lien power over the securities placed by the customer. However, the banker's claim to a general lien is unaffected if he is not aware that the negotiable securities do not belong to the client. Banks are not granted liens over deposited funds and have the power of set-off. The goods and securities given to the banker are covered by the banker's right of lien. The credit balance in an account and money deposited in a bank do not qualify as commodities or securities. Therefore, with relation to the money placed with him, the banker may utilize his right of set-off rather than his right of lien. The Madras High Court stated its position unequivocally as follows. Only other people's property, not your own, may be the subject of the lien under section 171. Therefore, it would be accurate to refer to a bank's right over assets or goods that are deposited with or kept in its custody as a lien because the client would still retain ownership of the goods or securities. However, when money is put in a bank as a fixed deposit, the bank acquires ownership of the funds, and its claim to the funds is no longer a true lien. Speaking of it as a right to set-off or adjustment would be more appropriate[9], [10].

Right of Departure

Prior to the creditor being able to collect the debt owing to him from the debtor, the debtor has the legal right to set off any debt owed to him by the creditor. In other words, the debtor simply has to pay the remaining amount once the mutual claims of the debtor and the creditor have been settled. The ability to combine two accounts in the name of the same customer and to balance the debit amount in one account with the credit balance in the other belongs to all debtors, even bankers. For instance, if A has an overdraft of $5,000 from his banker and a credit balance of $2,000 in his savings account, the banker may combine both of these accounts and simply demand the remaining $3,000 in debt. If there is no written or implicit agreement that conflicts with this right, the lender may use this right of set-off after serving notice on the client informing the latter of the former's intention to do so. To be safe, the banker requests a letter of set-off from the client permitting the banker to use the set-off right without notifying him. The following requirements must be met in order to exercise the right of set-off: The accounts need to be in the same right and name. The accounts with the banker must not only be in the same name but also in the same right in order for the right of set-off to apply, which is the first and most crucial need. The phrase "the same right" means that the account-holder's capacity in both, or what we will call, the accounts, must be the same, meaning that he holds the monies in one account in the same right or capacity in which a debit balance exists in the other account. This rule's guiding premise is that money that belongs to someone else but is held in the account holder's name should not be made

accessible to pay off his personal obligations. The examples below illustrate this point: A sole proprietor's personal account and the firm's account are both considered to be in the same legal status, therefore the right of set-off may be used if either account has a negative balance. If a business's partners hold both their personal accounts and the firm's account with the same bank, the latter cannot offset the debt due from the firm against the partners' personal accounts. However, the banker may set off such debt against the credit balances in the partners' personal accounts if they have expressly agreed to be jointly and severally responsible for the firm's obligation to that party. Accounts opened with a banker under a person's name acting as a guardian for a child are not considered equally to that person's own accounts. The money kept in a trust account is thought to be in a variety of rights. The latter should not be regarded as being in the same right if a client registers a separate account with clear instructions as to the purpose of such account.

One example is the case of Barclays Bank Ltd. v. Quistclose Investment Limited. Rolls Rozer Ltd. borrowed money from Quistclose Investment Ltd. with the express intent of paying the dividend to the shareholders and deposited it in a different account with Barclays Bank Ltd. called the "Ordinary Dividend No. 4 Account." The latter was also made aware of the reason for the deposit. Before the proposed dividend could be paid, the firm fell into liquidation, and the banker consolidated all of the company's accounts, including the one mentioned above. The company's debtors, Quistclose Investment Ltd., demanded payment of the remaining sum in the aforementioned account, but the bank refused. In the end, it was ruled that a trust had been created in the shareholders' favor by creating an account specifically for the purpose of paying the dividend. The advantage was to go to the bank and Quistclose Investment Ltd. if the latter could not get the monies. As a result, the banker was not permitted to offset the debit amount in the company's account against the credit balance in the preceding account. The sum maintained in an advocate's client account is not regarded as being held in the same capacity as the amount stored in his personal account.

DISCUSSION

Self-Instructional

A debt owed by one of the joint account holders in his individual capacity cannot be offset against an amount owed to him by the bank in the joint account when it involves a joint account. But if the joint account is payable to "former or survivor," the situation would seem to be different. Such an account will be regarded to be payable to the former first and to the survivor only after the former's death. Therefore, the sum in the joint account may be used to offset the debt of the former. The right may only be used in relation to debts that are already due; it cannot be used in relation to contingent or future obligations. A banker, for instance, has the authority to set off a credit balance in a customer's account toward the payment of a bill that is now due but not with regard to a debt that would mature in the future. If a client receives a loan that may be repaid immediately or at a later date, the debt does not become due until the lender makes a demand or the designated date, not before. Debts must have an exact dollar amount. The number of obligations owed by both parties to one another must be known with certainty. The right of set-off cannot be used if the precise responsibility of any one of them is unknown. For instance, if A serves as a guarantee for a loan of $50,000 that a bank extends to B, his responsibility as a guarantor won't become a problem until B misses a payment.

Until his obligation as a guarantor is established, the banker cannot offset the credit amount in his account. The lender must first demand payment from his debtor in order to achieve this goal. Only then does the guarantor become liable and the banker is permitted to use the credit

balance in the guarantor's account in the event that the latter fails to make his payments on time. When the banker becomes aware that the amount of the loan has become sticky, or irrecoverable, he is unable to exercise this power. In the absence of a conflicting agreement, the right may be used. The banker is not permitted to use the right of set-off if there is a stated or inferred agreement that is contradictory with it. The statutory general lien under Section 171 of the Indian Contract Act, 1872, would not apply if there is an explicit contract establishing a lien on security between the client and the lender. Within the Krishna Kishore Karv. Untitled Commercial Bank and Another, or the UCO Bank, at K.K. Kar, who guaranteed payment for the coal delivered to him, made a 2-lakh rupee guarantee in their favor. The client signed a counter-guarantee in the bank's favor and gave it 1.83 lakhs in margin funds as well. The Bank offset the '76,527 payable from the client under various accounts against the margin money placed by the customer in exercising of its lien after completing its responsibilities under the guarantee.

The High Court ruled that because of the counter-guarantee, which constituted a contract in violation of the right of general lien, the bank was not permitted to appropriate or modify its claims under section 171 of the Contract Act. The Banker has the option to use this privilege. The bank may combine two or more accounts in the name of the same client at different branches since all of its branches are considered to be one entity for the purposes of exercising this privilege. However, the consumer is unable to coerce or pressure the banker to use the right and settle the credit amount at any other branches.

This privilege may be used by the banker prior to the garnishee order taking effect. A banker has the right to utilize his right of set-off before turning over solely the remaining sum to the judgment-creditor in the event that a garnishee order is issued in relation to money that belong to his client.The ability to impose interest and other fees, among other things.

A banker has the implicit authority to impose interest fees as a creditor on the client advances. Banks often adhere to the practice of regularly debiting the client's account with the amount of interest owed by the consumer. On the other hand, the agreement between the banker and the client may specify that interest may also be charged at a compound rate. The agreement in Konakolla Venkata Satyanarayana and Others v. State Bank of India stated that "interest. For several years, the customer used the overdraft facility, and periodic account statements were sent to the customer showing that interest was being charged and debited at compound rate with no objections ever being raised. The interest was calculated on the daily balance of such amount and charged to such account on the last working day of each month. As a result, the High Court decided that there was no question that the client had given his consent to be charged and debited for interest at the compound rate. The consumer is not required to pay the interest in cash.

The amount of interest is considered a debt owed by the client to the banker after creating a debit entry in the customer's account, and interest starts to accumulate on it the next month. The same procedure is used when interest is permitted on savings accounts. In order to cover these accounts' incidental expenditures, banks also impose incidental fees on current accounts.

Various Customer Types

Individuals

Individual accounts make up a significant portion of the deposit accounts in the personal sector of most banks. Anyone who is at least eighteen years old and of sound mind may establish a bank account.

Minors

A banker would create a joint account with the natural guardian in the instance of a minor. However, banks create minor accounts in a minor's name and permit one-time transactions by the child in order to promote the savings habit. These accounts may only be created under specified circumstances. For example, the minor must be at least a certain age, such as 12 or 13, and must be literate. Overdrafts are not permitted in these accounts. In order to create a minor account, the mother must sign on behalf of the minor as well as the father, who is the natural guardian.

Holders of a Joint Account

An account that is held jointly by two or more people. Each individual must sign the account opening documentation when the account is opened. Depending on how many users there are for the account, the operating instructions could change. If no specific instructions are given, then all account holders will operate the account jointly. The instructions for operating the account would terminate in the event of insanity, insolvency, or the death of any of the joint holders. If there are two account holders, it may be jointly operated by both account holders, either or the survivor former or survivor.

Illiterate Individuals

Unable to sign, illiterate people are only permitted to establish savings or fixed deposit accounts. They often aren't allowed to start a current account. When establishing accounts for these individuals, the following extra conditions must be satisfied: The depositor's thumb imprint must be taken on the account opening form in the presence of a minimum of two people who are known to the bank and who must verify that they know the depositor. For identification purposes, the depositor's picture is attached to both the savings passbook and the ledger account.When the passbook is provided, the thumbprint is checked, and the account holder's identity is confirmed, withdrawals from the account are permitted.

Undivided Hindu Family

According to Hindu customary law, a HUF is a special entity that consists of a "Karta," his sons, grandsons, or even great grandchildren in a lineal descending sequence, who are "coparceners." Only the Karta has the authority to administer the HUF and its operations, and he does so on behalf of all the co-owners so that his decisions are binding on each of them to the extent of their ownership stakes in the HUF's assets. Other than the HUF property, the Karta and other coparceners may own self-acquired properties, although they cannot be combined for the HUF dues.

The Indian Partnership Act, 1932 governs partnership business, which is substantially different from HUF business. In a partnership, all partners are personally and jointly accountable to third parties for the partnership's obligations, and all of their personal assets, in addition to the partnership's assets, would be subject to attachment for partnership obligations. On the other hand, in HUF business, the coparceners' individual possessions are exempt from attachment for HUF dues.For the purpose of creating and operating HUF accounts, the banks must meet the following unique requirements:The account is established in either the Karta's or the HUF company's name.

A statement confirming the composition of the HUF, its Karta, and the names, relationships, and dates of birth of all of the coparceners including minor sons was signed by Karta and all coparceners. Only Karta or approved coparceners may administer the account. The coparceners' self-acquired assets are disregarded when calculating the family property's

security for borrowing purposes. According to the Hindu Succession Act of 1956, a coparcener's portion may be given to his wife, daughters, and other female relatives upon his death. In 2005, an amendment to the 1956 Hindu Succession Act was made. The Mitakshara Coparcenary property grants daughters' equal rights under the Amendment Act. The female coparcener may now serve as the HUF's Karta thanks to this change. All the principal co-borrowers must sign the forms when any HUF property is to be mortgaged to the Bank as a security of loan.

Firms

The word "Firm" may refer to a partnership business or a lone proprietary firm. A partnership company has two or more partners, while a sole proprietary business is entirely controlled by one individual. The owner's name or the firm's name may be used to create the account for the sole-proprietorship business. According to Section 4 of the Indian Partnership serve, 1932, a partnership is a group of people who have agreed to split the profits from any company that all of them, or any of them, serve as agents for. Both an oral and a written agreement between the couples might produce one. The Partner- ship Act does not mandate that a company be registered. Regardless of registration, outside parties may still sue an unregistered company even if it cannot sue anybody for anything related to its operation. Due to the characteristics of a partnership business, bankers must make sure the following conditions are met when creating its account: The account must be established in the firm's name, and all partners must sign the account opening form. The partnership document signed by each partner is entered in the bank's records, together with any relevant terms that have an impact on how the account operates and additional comments on the ledger heading.

To secure their joint and multiple obligations, a partnership letter signed by every partner is acquired. The letter regulates how the account is run and must be followed as such.

When managing a partnership account, the following measures should be taken:

All approved partners must sign the account "for and on behalf of the firm," not in their own names. A partner cannot endorse a check made out to the company in his name and credit his personal account.

All partners must sign the guarantee form if the business is providing it to the bank. The ruling in Clayton's case states that if a partner passes away, no more borrowings would be allowed in the account until a replacement for the dead partner is found.

Account Closure Termination of the Relationship Between the Bank and the Customer

A banker-customer relationship is a contract between the two parties that may be ended willingly or involuntarily by legal action by either side. These two termination methods are discussed.

Voluntary Termination:

The client has the right to shut his demand deposit account for any reason, including a move or dissatisfaction with the banker's service. The banker is required to abide by this request. The lender may also decide to terminate an account if it has been handled poorly or if it views the client to be unattractive for certain reasons. However, a banker may only shut an account after providing the client a sufficient amount of notice. The cost of securing and starting a new account is far more than the cost of shutting an existing account, hence such instances of account closure at the banker's request are quite uncommon. The lender must shut the client's account if the consumer instructs the banker to do so in writing. The latter does not need to

inquire as to why the former took that course. The consumer must return any unused checks and the account must be immediately canceled. If the bank wants to cancel the account, the client may be asked to remove the funds if the account hasn't been used in a very long time. Such action is made with the understanding that the client no longer requires the account. The banker often moves the remaining money to a "Unclaimed Deposit Account" and closes the account if the client could not be located after reasonable efforts. When the customer is located, the remaining money is paid to them.

If the banker determines that the client is no longer a desirable client, he or she has the authority to end their relationship. The banker takes this drastic action when the client is found guilty of handling his account in an unsatisfactory manner, such as when the client is found guilty of forging checks or bills, writing checks without having enough money on hand, or not following through on his promise to repay loans or overdrafts, etc. The following actions should be taken by the banker to close the account. The banker must inform the client of his desire to cancel the account and ask him to remove any remaining funds in his favor. The consumer should have enough time to find other arrangements after receiving this warning. The banker shouldn't terminate the account by himself without giving such notification or move it to another branch. The banker should provide another notification specifying the precise date by which the account is to be closed if the client does not shut the account after receiving the aforementioned notice; otherwise, the banker will terminate the account himself. The banker may safely decline to take any more credits from the client during this notice period and may also decline to furnish the customer with new checkbooks. Such actions would be in line with the objective of the notification to cancel the account by a certain date and would not subject him to liability to the client.

However, the banker shouldn't refuse to honor the customer's checks as long as his account has a credit amount sufficient to cover the check. The Negotiable Instruments Act of 1881's Section 31 holds a banker accountable for paying damages to his client if he dishonors a check without good cause. If the client fails to shut the account, the banker should do so and deliver the money to the customer by draft. He won't be held responsible if later-presented checks for payment are returned unpaid.

Termination by Law:

The connection between a banker and a client may also be ended via legal proceedings or by the occurrence of the following events: client Death: Upon learning of a customer's passing, the bank halts any debit transactions in the account. Credits to the account, however, are possible. After acquiring the letters of administration, succession certificate, or indemnity bond in accordance with the authorized process, the remaining amount in the account is delivered to the deceased's legal representative, and only then is the account closed.

Client bankruptcy:

A corporation may be wound up in accordance with the law or a client may be declared bankrupt. No draws would be allowed on the person's or business's account in such a situation. The account is then closed when the balance is delivered to the Receiver, Liquidator, or Official Assignee.

Different Deposit Plans

A current account is a running, live account that may be used as many times as necessary over the course of a working day. The quantity and frequency of withdrawals from a current account are not limited. Individuals, businesses, organizations, government agencies /

departments, societies, liquidators, receivers, trusts, etc. may all establish current accounts. The following are some more key characteristics of current accounts: Current accounts are not interest-bearing, and banks are not permitted to charge current account holders any interest or brokerage.

Current accounts are allowed to have an overdraft capability for a brief period of time or on a regular basis up to certain restrictions. According to past agreements established by the account holder with the bank, a regular overdraft capacity is provided. In such circumstances, the bank would honor checks issued up to the overdraft limit but not beyond the credit amount. The part of draws used for overdrafts is subject to prescribed interest. Current account holders may also be given the ability to collect checks and buy bills. Periodically, the Bank will provide a statement of accounts to the account holder. Ledger Folio fees are the typical fees that banks charge to handle these accounts. Some banks don't charge for maintaining current accounts as long as the balance is adequate to cover the bank's labor costs. For collection and credit, third-party checks and checks with endorsements may be put in the current account.

CONCLUSION

In conclusion, Although the right of general lien gives creditors the ability to enforce their claims against debtors, it is subject to significant limitations that protect borrowers' rights and advance fairness in business transactions. In order to create unambiguous rights and responsibilities, establish these exceptions, and contribute to the general stability and confidence in contract law, it is essential for all parties participating in credit transactions to understand these exceptions.

Furthermore, some governments have limitations on the use of general liens in certain sectors or situations.

For instance, specific rules may restrict the extent of liens in particular regulated industries like banking or healthcare to safeguard customers or other vulnerable parties. In order to balance the interests of creditors and debtors, exceptions to the general lien right are necessary. Legal systems seek to avoid possible liens rights misuse and guarantee fair results in credit agreements by identifying these exceptions.

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CHAPTER 10

EXAMINES THE STRUCTURE AND FEATURES OF THE CURRENT DEPOSITS PREMIUM SCHEME

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ABSTRACT:

The Current Deposits Premium Scheme is a financial product offered by banks to incentivize customers to maintain higher balances in their current accounts. This paper examines the structure and features of the scheme, the benefits it offers to customers and banks, and its impact on the banking industry. By analyzing case studies and relevant literature, this study sheds light on the popularity and effectiveness of the Current Deposits Premium Scheme in attracting and retaining customers, enhancing banks' liquidity, and optimizing their profitability. The findings provide valuable insights into the dynamics of this scheme and its significance in the competitive landscape of retail banking.By encouraging customers to maintain higher balances in their current accounts, banks can ensure a stable source of low-cost funds, which can be utilized for lending and investment activities. This enhanced liquidity strengthens the banks' financial position and allows them to optimize their profitability.

KEYWORDS:

Account Features, Banking Services, Current Account, Deposit Premium, Interest Rates, Minimum Balance.

INTRODUCTION

This deposit product combines a current and short-term deposit account with a sweep-in and sweep-out feature to handle any withdrawals that may occur. In addition to having all the benefits of a current account, the product aims to provide current account holders an easy way to earn additional returns on assets that would typically not be used in the near future or are likely to stay unutilized.

The automated nature of the "Sweep in or Sweep Out" capability for more than a defined maximum of balance to be maintained and setting fixed deposits for desired duration will save a great deal of operational difficulties and create value in such accounts. As a result, the client will be able to use this facility to deploy money that in a regular current account were not earning income[1], [2].

Sweep out from current to short deposits may occur automatically when the account balance exceeds a certain threshold, weekly, or on particular days, such as the first and sixteenth of the month or once during a month as required by a specific bank.Savings Account Savings bank accounts are designed for people and groups of people, such as clubs, trusts, associations, and self-help groups, to retain their savings for covering their future financial requirements and plan to generate income from their savings[3], [4]. Banks provide interest on these accounts to promote the practice of saving money. Everyone wants to save money for a future goal, and to assist them achieve their goals, their savings should be secure and always available.

A person may use this account to save aside money and prepare for his future financial needs. Savings are totally liquid in this account[5], [6].

The following are the main characteristics of savings bank accounts:

The account holder is entitled to withdrawals upon request and upon production of checks or a withdrawal form or letter. Cash withdrawals beyond the allotted amount per transaction/day, however, need for prior notification to the bank branch. The number of withdrawals per month or quarter, the number of withdrawals per day, the minimum balance that must be kept in the account at all times, and other limits are imposed by banks. If these are broken, a fine or penalty is assessed. Due to decisions made by their Boards, these regulations vary amongst banks. These limitations are justified by the fact that the funds Bank account is mainly designed for attracting and building funds rather than being used as a current account.On a daily basis, the Bank pays interest on the results of outstanding balances. The bank periodically chooses the interest rate. Since there can never be a debit amount in a savings account, there is no overdraft limit over the credit sum. Most banks provide account holders a passbook that lists debit and credit transactions by date and credit balances in accordance with the customer's ledger account that is kept on record by the bank[7], [8].

Accounts with a cheque book facility allow withdrawals using checks made out to oneself or other individuals. The payees of the check may be paid in cash at the drawee bank branch or by clearing or collection via their bank accounts. If a Pass Book has been issued, the account holder may also make a cash withdrawal by submitting a withdrawal form with it. Accounts with a non-cheque book facility allow holders to withdraw money only at the drawee bank branch by submitting a withdrawal form or a letter asking for authorization to withdraw money together with the account passbook. In such circumstances, third parties cannot be paid. Nearly all banks that provide ATM services issue ATM cards to account holders so they may use the service whenever they need it, anywhere, and at any time.

Basic Savings Account with a Bank

The RBI has changed the rules for creating "no-frills" accounts for basic banking in order to make these services more uniformly accessible across the banking sector. These accounts are now referred to as "Basic Savings Bank Deposit Accounts" and feature the following minimal common facilities: - Access to ATM cards or ATM-cumulative Debit Cards. Holders of "Basic Savings Bank Deposit Account" are not eligible to open any other savings bank accounts, and any existing such accounts should be closed down within a period of 30 days from the date of opening of "Basic Savings Bank Deposit Account." Facilities are free, and no fee would be assessed for non-operation or activation of an inactive "Basic Savings Bank Deposit Account."It is possible to change existing "no frills" accounts to Basic Savings Bank Deposit Account[9], [10].

Account with Premium or Savings Bank Plus

With numerous discounts and add-ons, Premium Savings Accounts provide an enhanced version of Savings Bank Accounts. It is suitable for consumers that are High Net Worth Individuals or Mass Affluent. The account will be connected to a Multi Option Deposit account for automatic sweeps, Term Deposit issuance, and unitized break-up services. Any excess funds in the account that are more than the threshold limit are transferred as term deposits and receive interest in accordance with term deposits, with a minimum of 10,000 and multiples of 1000 in any one occurrence. The account is handy for those who have extra money set aside for an indeterminate length of time since they might potentially earn term deposit income by putting the money in a savings bank account. Customers who open this account have the ease of a savings bank account and the better return of a term deposit.Call deposits, also known as deposits in call accounts, are only repayable upon demand and are kept by partner banks with another bank. Some banks have made it illegal to request payment

of call deposits without providing a week's worth of notice in advance. According to the guidelines periodically set out by the RBI or Indian Banks Association, these accounts may or may not earn interest.

Regular payments or cumulative payments

Savings must be compulsorily placed in recurring deposit accounts at certain intervals for a predetermined time. These are designed to instill in the low- and middle-income group of people a regular and obligatory saving habit for their particular future requirements, such as further education or the marriage of their children, the purchase of automobiles, etc. These deposits' primary characteristics are: For a certain amount of time, the consumer makes fixed deposits into the account at predetermined intervals. The relevant rate for fixed deposits for the same time is typically the interest rate payable on recurring deposits. On the day of maturity, the whole amount placed is returned together with interest.For unforeseen needs, the depositor may prepay the deposits before they mature or get an advance on the deposits up to 75% of the account amount as of the advance date. Premature withdrawals would result in interest rates that were lower than the agreed-upon rates and penalties as well. Similar to interest paid on deposits, interest charged on advances against deposits is typically one to two percentage points more than the appropriate rate of interest on deposits.A Recurring Deposit Premium account or the Monthly-Plus Deposit Scheme

The versatility of "Step-up and Step-down" choices for monthly payments makes it a flexible recurring deposit system. Individuals, organizations, corporations, sole-proprietorship or partnership businesses, trusts, HUF, etc. may participate in the program. The consumer chooses the "core amount" while creating the account and deposits that amount initially according to the system. '100 is the minimum and '1,000,000 is the highest that may be used for the core amount. The client will choose in advance the deposit period. The depositor may make monthly installment deposits in multiples of $100 that are more than the minimum core amount. A client may decrease the instalment amount in any succeeding months, similar to increasing it, but not by the core amount. The interest rate under this plan will be determined by the term deposit rate in effect for the specified time. For the minimum balance between the tenth and the final day of the month, interest will be computed on a monthly product basis and credited quarterly.

Permanent Deposits

In contrast to demand deposits, which enable client operations against the account, fixed deposits are repayable on the predetermined maturity date together with the principle and agreed-upon interest rate for the time. The bank may freely use these money for loans/advances and generate interest while the depositor forfeits liquidity on the deposit.As a result, banks must always retain a part of deposits available to depositors by paying greater interest rates on fixed deposits than on withdrawal-only savings bank accounts. Another reason why banks provide higher interest rates on fixed deposits is because these accounts need far less administrative work to maintain than savings accounts, which require more cash, transfer, and clearing operations and have greater administrative costs. The following are the main characteristics of fixed deposits: Fixed deposits are accepted for defined time periods and at specific interest rates, as mutually agreed upon at account establishment by the depositor and the banker. The interest rate on the deposit is contractual, so even if it changes throughout the deposit term (upward or downward), it cannot be changed.Prior to being deregulated, the interest rates on fixed deposits were controlled by the RBI. Now, banks are free to set their own interest rates for various fixed deposit maturities. The maturity-wise interest rates at a bank will, however, be the same for all clients, with the exception of two

groups: senior citizen deposits and high value deposits that exceed particular cut-off values. These two groups may be eligible for higher interest rates as per defined Basis Points. To avoid discrimination and abuse at the branch level, the bank's board of directors has provided precise instructions on the differential rate and the power granted to permit such a differential rate of interest. According to the RBI's instruction, a fixed deposit must last a minimum of seven days. Each bank determines the maximum duration and band of term maturities, as well as the appropriate interest rates for each band.The bank branch taking the fixed deposit issues a deposit receipt that includes the depositor's name, the principal amount, the maturity term, the interest rate, the dates of the deposit and its maturity, and other information. The deposit receipt is not a transferable or negotiable document like a check. However, a term deposit receipt serves as legal proof of the agreement to make the deposit and agree to the conditions. A new deposit receipt is sent to the client at the time of maturity of the deposit, serving as evidence of a new contract, and the principal and interest may be extended for an additional period at the applicable interest rate. As an alternative, the deposit may be refunded by requesting the depositor's release on the back of the receipt. Many banks, at their option, prepay fixed deposits in order to satisfy clients' requests for funding unexpected needs. In certain situations, interest is paid at a rate that is typically 1% lower than that applicable to the period that has already passed.

To satisfy clients' urgent needs for liquidity, banks may also provide overdrafts or loans secured by fixed deposits. The rate of interest on such a facility will be 1%–2% more than the rate on the fixed deposit.

DISCUSSION

Special Term Deposits

All elements of a fixed deposit are included in a special term deposit. In addition to this, interest is compounded every three months, giving depositors bigger returns. Currently, this program is used for 80% of the term deposits in banks.

Senior Citizens are subject to higher interest rates

People who have reached the age of 60 are considered "Senior Citizens" for the purposes of receiving higher interest rates on term deposits that do not exceed 1%. Each bank has created a unique senior citizen term deposit program.

Document of Deposit

In order to draw money from corporations, banks, and other entities, banks also provide deposits. The Certificate of Deposit is one such significant deposit instrument that banks provide. Unique characteristics of a certificate of deposit

1. Certificates of Deposit are issued at a discount to their face value and mature for that amount.
2. The minimum and maximum terms for a bank CD are 7 days and 365 days, respectively.
3. The minimum and maximum amounts for a CD are $100,000 and multiples thereof.
4. With regard to loans and prepayment, CDs vary from fixed deposits offered by banks.

While banks provide fixed deposit holders the option to withdraw before maturity and, if necessary, to take out a loan, both of these things are not permitted in the case of certificates of deposits. For Certificates of Deposit, prepayment of CDs and loans secured by CDs are prohibited.

Deposits that are hybrid, flexible, or part of a multi-option deposit scheme

These deposits, which combine demand and fixed deposits, were created to provide customers with a flexible way to satisfy their financial demands. To draw large deposits from wealthy customers, several banks had developed this new deposit option a few years before. The subsequent expansion of this product in many other banks has been made possible by the increased competitiveness and computerization of banking. Such deposits have been given unique brand names by the banks, such as the Quantum Deposit Scheme of ICICI Bank and the Multi Option Deposit Scheme of SBI. As shown by the following characteristics of the product, flexi deposits demonstrate a merger of demand and fixed deposits: The term deposits provided under the plan are only recorded on the bank's records because no term deposit receipts are given to the consumer, and only one savings or current account is created.

For the customer's knowledge and record, the details of the term deposits' issuance and payment will be included on the savings/current account statement. When the total amount of deposits in a savings or current account exceeds a pre-set threshold, the excess money is automatically moved in the customer's name to a term deposit account with a pre-set maturity in order to increase interest earnings. Cheques drawn on the account are honored in the case of a deficit by having the fixed deposit account immediately transfer the necessary amount back to the savings/current account. Due to the premature payment of that component of the term deposit, the term deposit is broken in this situation, and the amount of the reverse sweep receives a reduced interest rate. The remainder of the term deposit, however, is still earning the initial interest rate.

Customized Deposit Plans

Almost all banks have created unique programs with unique names that combine the two or three deposit programs stated above. These plans are created in accordance with the demands of a certain client. For instance: One individual enters the bank and declares that he has been blessed with a girl or male baby and that he wants to save for the child's/adult's future schooling and wedding costs. The bank will recommend to him a plan of Recurring Deposit + Special Term Deposit taking into account the amount needed for schooling and marriage after a set time in accordance with the usual age of marriage. Several systems are listed:

Benefit Deposit

With the protection of a fixed deposit and the rewards of an equity fund, the Advantage Deposit combines fixed deposits with mutual fund investing. Advantage Deposit uses Systematic Investment Plans to offset changes in the stock market.a mutual fund's systematic investment plan combined with a fixed deposit.the mutual fund's systematic investment plan receives the fixed deposit's monthly interest payment and reinvests it. Automatic account debits using a standing order or ECS debit mandate

Child Education Program

The "Child Education Plan" is a special technique to set money aside for a child's future.Start by making tiny payments in a recurring deposit for a brief period of time to realize your child's dreams and objectives. You'll then earn monthly rewards throughout the remainder of your child's school or college career. A person may set up an investing plan that will cover a kindergartener's primary school costs if they make regular investments over the course of the following five years. If a youngster is in secondary school, only put $3,000 down for the first six years of a 10-year plan. Get a payment of more than '1 lac every year for the next four years and realize your goal of having your kid graduate from a prestigious university.

Eligibility

Only minors who are supervised by a guardian may open a Child Education Plan. The kid must have a bank savings account.

Insurance-related Deposit Programs

Some banks have created specific programs that provide group insurance at a little cost or for free to depositors in savings banks for personal accidental insurance. In order to get an advantage over competitors, these marketing tactics are used for a brief time during a particular deposit mobilization campaign. This attracts new depositors, and a small number of customers have a tendency to move their accounts from one bank to another. For instance, HDFC offers its depositors free personal accidental insurance as long as they meet specific requirements. During the first year, One Regional Rural Bank offers free accidental insurance to new depositors; however, after that, the bank charges $5 for $500,000 in personal accident insurance. Standard Chartered Bank has introduced a savings account with the subject of cricket. Account users will get "runs" for the purchases, which can be exchanged for items like tickets to Indian cricket tournaments, signed cricket gear, or Nike athletic gear.

Deposit Programs for a certain kind of Segment Clients

Banks provide specific deposit plans for women, school-aged children, and older residents. If a woman's name is on the term deposit, certain banks will pay extra interest. A certain customer sector, such as paid individuals and army personnel, receives some reductions in relation to minimum balance requirements and service costs.

Special Programs for Indian Non-Residents

Non-resident deposits are collected from individuals with Indian nationality, Indian ancestry, who live abroad, as well as from overseas corporate bodies that are mostly controlled by such individuals.

These may be divided into two groups. Indian nationals who go overseas for work, business, pleasure, or any other reason that indicates a plan to remain there for an extended length of time. For the purposes of establishing these individuals' income tax obligation in India, the Income Tax Act has specified a minimum residency duration abroad in a year or block of years.Persons of Indian descent outside of Pakistan or Bangladesh who have ever had an Indian passport, whose parents or grandparents were Indian citizens, or who are married to an Indian citizen.

International Corporate Entities:

These refer to a corporation, partnership firm, society, or other corporate organization that has at least 60% of its ownership, directly or indirectly, by NRIs. The following accounts are permissible for NRIs to have with Indian banks that the RBI has recognized as Authorized Dealers.Non-Resident Ordinary deposit accounts may be opened by regular NRIs to receive money from legitimate local transactions. NRO accounts are in rupees, hence the depositors alone are responsible for assuming the currency rate risk. Existing rupee accounts belonging to a resident are changed to NRO status when they become NRIs. These accounts are useful for the needs of foreign nationals living in India. NRO accounts may be kept as term, recurring, saving, or current deposits. Current income and interest earnings are returnable, but the principal of NRO deposits is not. Additionally, NRIs and PIOs are permitted to transfer funds up to US$1 million per fiscal year from their NRO account balances, sale proceeds from assets, or assets they inherited or left behind in India, provided they produce the

necessary documentation, sign an undertaking, and obtain a certificate from a Chartered Accountant in accordance with the formats set forth by the Central Board of Direct Taxes.

Accounts for Non-Residents

The Rupee Account for Non-Residents the NRE system, commonly referred to as the NRRA scheme, debuted in 1970. With money sent to India via a bank overseas, any NRI may create an NRE account. This account may be transferred to another NRE account or FCNR account, and it is also transferrable. You may establish a current, savings, or term deposit NRE rupee account. From NRE accounts, local payments are readily admissible. The depositor is subject to exchange risk since this account is kept in Indian rupees. NRIs and PIOs have the option of crediting their current income to their Non-Resident Rupee accounts as long as the authorized dealer is certain that the credit reflects the account holders' actual income and that any applicable income tax has been subtracted from or covered.

FCNR Program

Under this program, non-resident Indians may establish accounts. Instead of the person who has the power of attorney in India, the non-resident account holder should establish the account themselves. You may keep these deposits in any fully convertible currency. These accounts may only be kept open as term deposits with durations ranging from a minimum of one year to a maximum of five years. These deposits may be created using money sent from overseas in convertible foreign currency via a regular banking channel, provided that the Reserve Bank of India has given general or specific approval. These accounts may be kept at the locations of banks that have branches and are designated to receive FCNR deposits or to handle foreign exchange activity. Remittances from outside India or traveler checks or currency notes presented on a visit to India are acceptable sources of funding for accounts under the Global Foreign Currency Deposit Scheme or for credit to such accounts. For the purpose of creating or crediting FCNR accounts, international postal orders are not acceptedmoney transfers from active NRE/FCNR accounts.Additionally, rupee balances in the already-existing NRE accounts may be changed into one of the approved currencies at the currency's current TT selling rate for account establishment or credit to such accounts.

Benefits of FCNR Deposits Principal and interest are freely refundable in the depositor's preferred currency. Since the deposit is kept in a foreign currency, there is no exchange risk. NRI depositors or third parties may apply for loans or overdrafts in rupees using their deposits as collateral. However, correspondent banks provide for the availability of foreign currency loans against FCNR deposits in countries other than India. On these deposits, no income tax nor wealth tax are imposed. Close relatives who live nearby are exempt from gift taxes. Additionally, offered are the options for automatic renewal of deposits at maturity and safekeeping of deposit receipts. Interest is Paid Interest on FCNR Deposits is paid on a 360-day to 12-month basis. However, if the deposit has been made for 365 days, the depositor is qualified to receive interest that is valid for a year. Interest at the relevant rate will be paid without compounding for deposits made for a period of up to one year. Interest may be paid on deposits that have been made for more than a year at intervals of 180 days, and then for the remaining real number of days. However, if a depositor makes a longer-term deposit, they will have the option of receiving the interest with compounding.

CONCLUSION

In conclusion, In the retail banking industry, the Current Deposits Premium Scheme benefits both banks and clients. Banks may gain and keep clients while enhancing their liquidity and profitability by providing alluring incentives and advantages. Customers benefit from

improved services and financial incentives for keeping larger account balances. The Current Deposits Premium Scheme is anticipated to continue to play a significant role in banks' competitiveness strategies and efforts to meet customers' changing expectations as the banking sector develops. However, adequate risk management and responsible lending practices are essential for the Current Deposits Premium Scheme to be a success. Banks must carefully consider the dangers of charging higher interest rates on current account balances and make sure they have enough capital reserves to withstand any possible changes in liquidity.

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CHAPTER 11

A STUDY ONGUIDELINES OF THE RBI FOR BANK

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ABSTRACT:

The Reserve Bank of India (RBI) plays a crucial role in regulating and supervising banks in India to ensure financial stability, consumer protection, and efficient banking operations. This paper examines the various guidelines issued by the RBI for banks, covering areas such as capital adequacy, risk management, corporate governance, customer protection, and technology adoption. By analyzing case studies and relevant literature, this study sheds light on the importance of these guidelines in promoting a robust and well-functioning banking system. The findings provide valuable insights into the impact of RBI guidelines on enhancing the overall health and resilience of banks and fostering public trust in the financial sector.These guidelines cover a diverse range of areas, from capital adequacy and risk management to customer protection and technology adoption. By adhering to these guidelines, banks can build a strong foundation for sustainable growth, risk mitigation, and customer satisfaction.

KEYWORDS:

Asset Classification, Capital Adequacy, Cash, Credit Policy, Customer, Foreign Exchange.

INTRODUCTION

By using certain documented proof, KYC confirms the consumers' identities and home addresses. Preventing the financial system from being used to launder money or finance terrorism is one of the key goals of the KYC process. The "KYC" rules also support certain banks' current procedures and make them mandatory for all banks to follow with relation to all of their clients who have rupee or foreign currency accounts with them, whether they are residents of India or not. Both religious and non-religious trust accounts must go through the KYC process[1], [2]. No account should be created under an anonymous or fictitious/benami name, according to RBI's advice to banks. If the bank is unable to confirm the customer's identification or collect the necessary documentation because of the customer's lack of cooperation, the bank will not create an account or terminate an existing account[3], [4].

Procedure for Customer Identification

consumer identification entails locating the consumer and confirming his or her identity using evidence from trustworthy, independent sources. The objective of the intended nature of the financial connection and the identification of each new client, whether frequent or seldom, must be established to the satisfaction of the bank. Being satisfied requires the bank to demonstrate to the appropriate authorities that due diligence was performed in accordance with the current set of regulations, taking into account the customer's risk profile. Such a risk-based strategy is seen to be required to prevent banks paying excessive costs and subjecting consumers to onerous regulations. In addition to risk perception, the kind of client will also influence the information/documents needed. For clients who are natural people, banks should gather enough identifying information to confirm the customer's identity, address, and current picture. The bank should understand the ownership and control structure of the customer and identify the natural persons who ultimately control the legal person for customers who are legal persons or entities. The bank should confirm the legal status of the

legal person or entity through appropriate and relevant documents; confirm that any person claiming to act on behalf of the legal person or entity is so authorized and identify and verify that person[5], [6].

Demands for Customer Identification

Accounts with a Fiduciary Duty or a Trustee

It is possible to get around the customer identification processes by using trust/nominee or fiduciary accounts. If a client is acting as a trustee, nominee, or any other kind of intermediary on behalf of another individual, the bank should find out about it. If this is the case, banks should demand to be given sufficient proof of the identities of the intermediaries and the individuals on whose behalf they are operating, as well as information on the specifics of the trust or other arrangements in place. Banks shall take reasonable efforts to confirm the identification of the grantors, guardians, beneficiaries, and signatories as well as the trustees and settlers of the trust when creating an account for one. When they are defined, beneficiaries should be mentioned. The beneficiaries, if specified, and the founding managers/directors, in the case of a "foundation," should be verified[7], [8].

Company and company accounts

Banks must be on the lookout for anyone using company companies as a "front" to keep accounts with them. Banks should look at the entity's control structure, as well as the funding source and the natural people who are the entity's management and have a controlling stake. Depending on how risky the situation is, these criteria may be relaxed. For instance, it may not be essential to identify every shareholder in the case of a public firm[9], [10].

Accounts for Clients created by Qualified Intermediaries

The customer must be identified when the bank knows or has reason to suspect that the client account created by a professional intermediary is on behalf of only one client. The management of 'pooled' accounts by qualified intermediaries on behalf of organizations like mutual funds, pension funds, or other forms of funds may be held by banks. Additionally, banks maintain "pooled" accounts run by attorneys, certified public accountants, or stockbrokers for money that is "on deposit" or "in escrow" for a variety of customers. When there are "sub-accounts" at the bank where monies held by the intermediaries are not mixed together and each of them is attributable to a beneficial owner, all of the beneficial owners must be recognized. The bank should nonetheless contact the beneficial owners when such money is mixed together at the bank. When banks depend on an intermediary's "customer due diligence," they need ensure that the intermediary is governed, monitored, and has sufficient procedures in place to comply with KYC regulations. It should be clear that the bank has the primary obligation for knowing the consumer.Politically exposed people are those who hold or have held important public positions in another nation, such as heads of state or governments, senior politicians, senior judicial, military, or government officers, senior executives of state-owned businesses, key party officials, etc. In order to create a connection with any individual or client in this category, banks should obtain enough information about them and verify all publicly accessible information about them. Prior to admitting the PEP as a client, banks should confirm the person's identification and inquire about the sources of money. A top-level decision should be made to establish an account for a PEP, and this decision should be expressly stated in the customer acceptance policy. Additionally, banks must to continuously expose these accounts to increased scrutiny. The aforementioned standards may likewise be applied to the accounts of Peps' relatives or immediate family.

Accounts of clients that don't interact with you in person

With the advent of telephone and internet banking, banks are increasingly opening accounts for consumers without requiring them to go to a bank location. In addition to using the standard customer identification methods, there must be unique and sufficient measures to manage the increased risk associated in the situation of non-face-to-face clients. All of the submitted papers should be certified, and if further documents are required, they may be requested. In such circumstances, banks may additionally demand that the initial payment be made using the customer's account with another bank, which in turn complies with the same KYC requirements. Cross-border consumers provide an extra challenge when trying to connect the customer with the supporting documents, and the bank may be forced to depend on third party certification or introduction. In these situations, it is essential to confirm that the third party is a regulated, monitored organization with functional KYC mechanisms.

Basic Bank Deposit Accounts for Savings

Low-income individuals in both urban and rural regions are unable to provide the bank with the necessary documentation to prove their identity and residence. They can become financially excluded as a consequence of being unable to use banking services. As a result, the KYC method also allows for the establishment of accounts for people who want to maintain balances in all of their accounts totaling no more than Rs. 50,000 and who do not anticipate a total credit in all of their accounts totaling more than Rs. 1 lakh each year. In such situations, banks should create an account for a person who wishes to open an account but is unable to submit the papers listed as shown in the chart, subject to: introduction from a different account user who has gone through the whole KYC process. The introducer's bank account must be at least six months old and have sufficient activity. A photograph of the client who wants to open the account and his address must be attested by the introducer, or the bank would accept any other proof of the customer's identity and address. When opening accounts as described above, the customer should be made aware that no further transactions will be allowed until the full KYC procedure is finished if at any point the balances in all of his or her accounts with the bank exceed Rupees 50,000 or the total credit in the account exceeds Rupees one lakh in a year. When the balance reaches Rs. 40,000 or the total credit in a year reaches Rs. 80,000, the bank must inform the customer so as not to inconvenience them that the necessary documents for conducting the KYC must be submitted otherwise operations in the account will be suspended.

DISCUSSION

Banks for Opening an Account

Since the utility bills necessary for address verification are not in their names, certain close relatives, such as a wife, son, daughter and daughter, and parents, etc. who reside with their husband, father or mother and son, as the case may be, are having trouble opening accounts with some banks. In these situations, banks may request an identification document, a utility bill, and a statement from the relative who the potential client is staying with confirming that the individual seeking to create an account is a related and is residing with them. Banks may utilize any further proof, such as a letter received in the mail, to confirm the address.In front of bank employees, a customer's sample signature is acquired on the account opening form, and it is witnessed by an authorized bank official on the form itself.

Customers are identified primarily by their signatures on checks and vouchers, which are checked to the specimen signature on file to ensure that the signatures are authentic.

Authority of Attorney

A power of attorney is a document properly stamped in accordance with the Stamp Act that a customer gives to his banker to authorize the use of the account by the attorney or agent listed therein. The banker should make sure the document: expressly authorizes the named individual to manage the named account on behalf of the customer; is duly stamped and notarized; is valid and not out of date; contains no restrictions or limitations on the attorney's power; and binds the principal to the attorney's actions. After then, the Power of Attorney is documented in the branch's records, and the attorney's signature is noted in the account for the branch's operation. A "Mandate," which is a more straightforward and generalized form of a "Power of attorney," is a straightforward authorization issued in writing to the banker by a client, allowing a nominated individual to manage the account temporarily for a specific amount of time.A banker-customer relationship is a contract between the two parties that may be ended willingly or involuntarily by legal action by either side. These two termination methods are discussed.

A. Ending voluntarily:

The banker is required to abide by the customer's request to shut his demand deposit account due to a change of domicile, dissatisfaction with the banker's service, or for any other reason. The lender may also decide to terminate an account if it has been handled poorly or if it views the client to be unattractive for certain reasons. However, a banker may only shut an account after providing the client a sufficient amount of notice. The cost of securing and starting a new account is far more than the cost of shutting an existing account, hence such instances of account closure at the banker's request are quite uncommon. The lender must shut the client's account if the consumer instructs the banker to do so in writing. The latter does not need to inquire as to why the former took that course. The consumer must return any unused checks and the account must be immediately canceled.

B. If the bank wants to cancel the account:

If a customer's account is dormant for an extended length of time, the banker may ask them to remove their funds. Such action is made with the understanding that the client no longer requires the account. The banker often moves the remaining money to an "Unclaimed Deposit Account" and closes the account if the client could not be located after reasonable efforts. When the customer is located, the remaining money is paid to them.If the banker determines that the client is no longer a desirable client, he or she has the authority to end their relationship. The banker takes this drastic action when the client is found guilty of handling his account in an unsatisfactory manner, such as when the client is found guilty of forging checks or bills, writing checks without having enough money on hand, failing to repay loans or overdrafts, etc. The following actions should be taken by the banker to close such an account:

The banker must inform the client of his desire to cancel the account and ask him to remove any remaining funds in his favor. The consumer should have enough time to find other arrangements after receiving this warning. The banker shouldn't terminate the account by himself without giving such notification or move it to another branch. The banker should provide another notification specifying the precise date by which the account is to be closed if the client does not shut the account after receiving the aforementioned notice; otherwise, the banker will terminate the account himself. The banker may safely decline to take any more credits from the client during this notice period and may also decline to furnish the customer with new checkbooks. Such actions would be in line with the objective of the notification to cancel the account by a certain date and would not subject him to liability to

the client.However, the banker shouldn't refuse to honor the customer's checks as long as his account has a credit amount sufficient to cover the check. The Negotiable Instruments Act of 1881's Section 31 holds a banker accountable for paying damages to his client if he dishonors a check without good cause. If the client fails to shut the account, the banker should do so and deliver the money to the customer by draft. He won't be held responsible if later-presented checks for payment are returned unpaid.

C. Lawful Termination:

A banker-customer relationship may also be ended by legal action or by the occurrence of the following circumstances: death of a client The bank halts all debit transactions in the client's account upon receiving news or knowledge of the death of the customer. Credits to the account, however, are possible. After acquiring the letters of administration, succession certificate, or indemnity bond in accordance with the authorized process, the remaining amount in the account is delivered to the deceased's legal representative, and only then is the account closedbankruptcy of the client According to the legislation, a client may be declared bankrupt or a firm may be wound up. No draws would be allowed on the person's or business's account in such a situation. The account is then closed when the balance is delivered to the Receiver, Liquidator, or Official Assignee.

Deposit insurance for banks

Deposits made by the general public with banks are insured up to a maximum of Rs. 1 lakh in each account, which is a significant aspect of Indian banking. Following the collapse of South India's scheduled bank Palai Central Bank in 1960, the government and reserve bank realized the need for deposit insurance so that the public's confidence in banking institutions wouldn't be undermined whenever one bank went out of business or merged with another. A Parliamentary Act created the Deposit Insurance Corporation of India to protect bank savings, and the deposit insurance program went into force on January 1, 1962. With effect from July 15, 1978, the Corporation's name was changed to Deposit Insurance and Credit Guarantee Corporation.

Important Characteristics of Deposit Insurance

Since its start, all scheduled and unscheduled commercial banks in India are covered by the deposit insurance system. Cooperative banks in 21 States and 3 Union Territories are now covered by deposit insurance. The Regional Rural Banks are also a part of this program. These banks are all referred to as insured banks. All deposits made with insured banks are covered by insurance, with the exception of those made by the federal, state, foreign, and commercial governments. Deposits held by insured banks are only covered up to a certain maximum. Up to Rs. 1 lakh, all overdue sums owed to a depositor kept in a bank in the same capacity and in the same right are covered by the insurance policy. This implies that each depositor's account in each insured bank is covered up to a maximum of Rs. 1 lakh. Fully protected accounts are those with credit balances up to Rs. 1 lakh per account. If the insured bank collapses or merges with another bank and fails to completely pay the sums owed to the depositors in cash or by crediting the same to the full extent in the books of the transferee institutions, the Corporation reimburses the depositors. The Corporation pays the difference between the amount thus paid or credited and the maximum of insurance cover per account.

The Corporation manages two funds: the General Fund and the Deposit Insurance Fund. The Deposit Insurance Fund receives credit for the insurance premia revenue, which is then invested in securities issued by the Central Government. Insurance losses are subtracted from and income from such investments is deposited to the Fund's Revenue Account. All other

Corporation costs are covered by the General Fund. Bankers must follow particular protocols and take certain safety measures while creating accounts and taking deposits. Consider KYC standards. Similar to this, banks should exercise caution while repaying deposits and do so in accordance with their policies and the RBI's regulations.

A depositor of a bank may designate one person as the depositor(s)' nominee(s) in accordance with the Banking Regulation Act of 1949. The nomination must be submitted in the appropriate format. The deposit may be repaid to the nominee in the case of the depositor's death. If the depositor passes away, the nominee is entitled to collect the deposit. A minor may also submit a nomination. However, if a minor is named as nominee, banks should ask that someone be named to accept the deposit on the child's behalf. Banks that are cooperative are subject to the rules of the Co-operative Banks Rules of 1985, whereas commercial banks are controlled by the terms of the Banking Companies Rules of 1985. Banks get a legal discharge if they pay the nominee. Depositors should use the nomination option and suggest a candidate.

For items housed in safe deposit boxes or in the care of banks, there is also a nomination option available. According to the Banking Regulation Act of 1949, anybody who maintains an item in a safe deposit box and/or in safe custody may designate one person as his nominee to take possession of the item in the case of that person's death. The nomination must be submitted in the appropriate format. The nominee is entitled to collect the items held in safe custody or remove the contents of the locker in the event that the bank's client passes away, and the bank is given a legal discharge.

Resolution of claims

while a banker gets a claim, he should exercise caution while paying out the deposit amount. When a depositor passes away, the banker will either receive a claim from the nominee or the depositor's legitimate heirs.

Settlement of a Nominee's Claims

In accordance with the rules, banks must solicit nominations from depositors and record them in their records. The depositor must get an appropriate acknowledgement. The deposit amount may be paid to the nominee after proper verification of the necessary documents, including the claim form, the death certificate of the depositor, and proper identity of the nominee, and the banker should obtain an acknowledgement from the nominee. Once the banker receives a claim from the nominee of the depositor, the banker should verify and satisfy himself that the claim is received from the person whose name is recorded as nominee in the bank's records.

The nominee must properly sign and date a revenue stamp to confirm receiving the deposit amount, together with any applicable interest. The acknowledgment must expressly declare that the nominee, in her capacity as the depositor's nominee, has received the deposit amount. Receiving the stamped receipt and acknowledgment constitutes a legal discharge of the bank. After thoroughly reviewing the bank's files and other pertinent papers, including claim forms, death certificates for bank customers, and nominee identification documents, the bank may satisfy claims relating to safe deposit boxes and custody accounts. In the absence of a nominee, banks should pay claims in accordance with the recommendations of their legal department and bank policies and procedures. Claim forms, the depositor's death certificate, a succession certificate, if appropriate, the correct identification of the legal heirs, and the proper acknowledgement of repayment of the deposit(s) from the legal heirs are all crucial papers to get.

Balance payment without a succession certificate

Individuals, children, non-resident Indians, partnership businesses, corporations, co-operative societies, organizations, institutes, government agencies, etc. are just a few of the many sorts of clients that banks create and handle accounts for. Banks should adhere to the regulator's guidance and the relevant regulatory framework when creating and maintaining accounts for this group of consumers.

CONCLUSION

In conclusion, The RBI's bank standards are crucial in fostering a secure, effective, and client-focused banking sector. Banks may improve their financial situation, efficiently manage risks, and increase client trust by following these rules. In order to maintain its adaptability and responsiveness to the changing demands of the economy and its stakeholders, India's banking system must consistently adhere to these standards and make periodic changes to reflect changing market conditions.

Furthermore, in the digital era, RBI policies on cybersecurity and technology adoption are crucial. Banks are increasingly relying on technology to provide cutting-edge services; therefore, it is crucial to protect client data, fend off cyberattacks, and guarantee the security of online transactions. These recommendations assist banks in protecting client data from possible intrusions and preserving the integrity of their IT infrastructure.

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CHAPTER 12

A BRIEF STUDY ONLEGAL ASPECTS OF BANKING OPERATIONS

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ABSTRACT:

The legal aspects of banking operations are a crucial component of the financial industry, governing the rights, responsibilities, and obligations of banks and their customers. This paper examines the legal framework that regulates various aspects of banking operations, including contracts, customer protection, money laundering, data privacy, and dispute resolution. By analyzing case studies and relevant legal literature, this study sheds light on the significance of legal compliance in ensuring the integrity and stability of the banking sector. The findings provide valuable insights into the complexities of legal aspects in banking operations and their impact on banks, customers, and the overall financial system.By adhering to the legal framework, banks can establish a foundation of trust and confidence among their customers, investors, and stakeholders. This adherence is essential not only for regulatory compliance but also for maintaining a positive reputation and fostering long-term relationships with customers.

KEYWORDS:

Anti-Money, Bankruptcy, Consumer Protection, Data Protection, Electronic Banking, Financial Crimes.

INTRODUCTION

Savings bank, current, overdraft, and cash credit accounts, which are funded by checks drawn by account holders on their bankers, are maintained by banks.

A banker may take on the roles of a paying banker or a collecting banker while managing these checks.

Banks are required by law to honor a check and make payment if it is valid and compliant with applicable regulations.

He shall only collect checks for his customers in accordance with the terms of the Negotiable Instruments Act of 1881 as a collecting banker. From the perspective of a banker, legal considerations in banking activities including indemnities and guarantees are crucial[1], [2].

Transfer of a Check

An "instruction" to pay the cheque's amount via a banker and not immediately to the person presenting it at the counter is known as crossing. A check with this directive is referred to as a "crossed check," whereas those without it are "open checks" that may also be cashed at the counter of the banker who is paying the check.

The crossing on a check is used to guarantee that the correct payee receives paid.

The Negotiable Instruments Act has provisions pertaining to crossover in sections 123 to 131.

These are also relevant in the event of drafts, according to 131-A. As a result, bank drafts and checks may both be crossed[3], [4].

Commonly Crossed out Checks

When two parallel transverse lines, either alone or with the words "not negotiable" present, are added across the face of a check to form the words "and company" or any abbreviation of those words, that addition is regarded as a crossing, and the check is regarded as having been crossed in general[5], [6].

Particularly Crossed Check

When the name of a banker is added across the face of a check, whether or not the words "not negotiable" are included, such addition is regarded as a crossing, and the check is seen as having been crossed specifically and to that banker. When a check is crossed, the banker on whom it is drawn must pay it to another banker alone. When a check is crossed specifically, the banker on whose account it is drawn must send it to that bank or his agent for collection if it is to be cashed

[5], [6].

Check with the Phrase not Negotiable

Any individual who accepts a check crossed generally or specifically with the words "not negotiable" on it is prohibited from having a better title for the check than the one the person from whom he accepted it had. Therefore, just though a check is marked "Not negotiable" does not indicate that it cannot be transferred. Although it may still be transferred, the transferee cannot get a superior title than the transferor[7], [8].

CrossingAccount Payee

Although the "Account Payee" crossover is common in Indian banks, the N.I. Act does not recognize it. As a result, the RBI has instructed banks that: Crediting the proceeds of account payee checks to persons other than those expressly defined in the instructions of the issuers of the cheques is prohibited and should never be done. Without the legal authorization of the drawer, any bank that credits the account of a constituent who is not the payee stated on the check does so at its own risk and is liable for the improper payment. The Reserve Bank has also forewarned banks that any violation from the aforementioned directions would result in harsh penalties. The payee bank should always make sure that there are clear instructions for disposing of the proceeds of the checks from the drawer of the cheque in the event of an "account payee" cheque when a bank is a payee. If such instructions are missing, the check should be put back in the drawer. However, a relaxation has been included for cooperative credit societies in order to lessen the challenges members of these organizations encounter while trying to collect account payee checks. If the payees of account payee checks are the components of such co-operative credit societies, banks may consider collecting account payee cheques written for a sum not exceeding '50,000/- to the account of their customers who are co-operative credit societies[9], [10].

The Double Cross

A particular crossing on a check indicates that it should be cashed via the designated banker. As a result, it cannot be crossed particularly to a different banker, i.e., a check cannot have two special crossings since the second defeats the intent of the first. For a particular reason, there is just one exception to this rule. If the banker to whom the check is particularly crossed first submits the check to another banker for collection as its agent, the later crossing must state that it is acting as the first banker's agent in such a circumstance.Definition of Endorsement 15 states the following regarding endorsement: "When the maker or holder of a

negotiable instrument signs the same, other than as such maker, for the purpose of negotiation on the back or face of the instrument or on a slip of paper annexed thereto or so signs a stamped paper intended to be completed as a negotiable instrument for the same purpose, he is said to have endorsed the same and is called the endorser.The maker of a negotiable instrument or another holder's signature constitutes an endorsement, but it is necessary that the purpose behind the signature be one of negotiation for it to be considered such. The individual who signs the document for negotiating purposes is known as the "endorser," and the person to whose benefit the document is transferred is known as the "endorsee." Although the endorser may sign on either the front or the back of the negotiable instrument, endorsements are often done on the instrument's back in accordance with custom. If there isn't enough room on the reverse for this, a "allonge" piece of paper may be affixed to it to serve as a place to record the endorsements.

Legal Requirements for Endorsements

Regarding endorsements, the Act contains the following provisions:

Consequences of Endorsements

A negotiable instrument is endorsed, then delivered, transferring the endorsed property therein with the option of additional bargaining. As a result, the endorsee gains ownership of or a stake in the instrument. He may also further negotiate it under Section 50, which also allows for the endorsement of an instrument in such a way as to make the endorsee the endorser's agent or to receive payment for the endorser or another designated party. Examples of such recommendations include the following: For my usage, pay C. Order for the account or pay. When a negotiable document is endorsable for any of the aforementioned uses, the endorsing party becomes the document's holder and the property therein passes to the endorsee. The High Court ruled in Kunju Pillai and Others vs. Periasami that the death of the original payee does not affect the rights of the holder of a negotiable instrument who secures it by endorsement. The Andhra Pradesh High Court further said in Mothireddy vs. Pothireddy that "the right based on the endorsement having made for a specific purpose, namely, collection of the amount, will be valid till that purpose is served." Because of this, the standard law on agency does not apply in certain circumstances.

Endorser

A negotiable instrument may be endorsed and negotiated by any solo maker, drawer, payee, or endorsee, as well as by any number of joint makers, payees, or endorsees. The right to negotiate must not have been circumscribed or excluded for this to apply. Therefore, the endorsements of all parties are required if the document is held jointly by many people. The one cannot speak for the other.Further negotiations are not constrained by the lack of the phrase "or order" in the document or any endorsement thereon. For instance, a bill may be payable to A or an order. The phrases "or order" or any other like terms are not included in A's recommendation to B. B may discuss the instrument further. However, in order for the creator or drawer of an instrument to be able to endorse or negotiate it, he must be its holder and have legal ownership over it. For the same reason, the instrument's possessor must be a payee or an endorsee. Time. A negotiable instrument may be exchanged up to the point at which the banker, drawee, or acceptor pays it off, but not beyond that. approval for a portion of the sum. The whole amount of the instrument must be endorsable. In accordance with Section 56, "no writing on a negotiable instrument is valid for the purpose of negotiable if such writing purports to transfer only a part of the amount appearing to be due on the instrument." As a result, an endorsement for a portion of the instrument's value is void.

If an instrument has only been partially paid, however, it may still be bargained for the remaining sum as long as a notation to that effect is included on the instrument. It won't be considered a legitimate endorsement if the signer wants to pass the document to two or more endorsees independently. A promissory note, bill of exchange, or check payable to order and endorsed by the dead but not delivered are all prohibited from being negotiated by the legal representative of a deceased person. If the endorsee is not given the instrument payable to order after the endorser signs it but dies before doing so, the endorsement is invalid, and the endorsee's legal agent cannot complete the negotiation by simply giving the instrument to the endorsee. Section 118 states that "the endorsements appearing upon a negotiation instrument were made in the order in which they appear thereon," unless the reverse can be shown. Meaning that the first endorsement on an instrument is assumed to have been made earlier than the second one.

DISCUSSION

General Rules regarding the Form of Endorsements

For an endorsement to be successful, it must be legitimate and consistent. The practice among bankers determines whether a certain kind of endorsement is suitable or not. Typically, the guidelines below are adhered to in this situation.

1. The endorser's signature appears.

The endorser's signature, or the signature of any other person properly authorized to endorse on his behalf, must appear on the document in order for it to be considered endorsed. If a check is made out to more than one person, each of them must sign it in their own handwriting. It won't be seen as a typical endorsement if the signer uses block letters.

2. Spelling.

The endorser's name must be spelled exactly as it appears on the check or bill as the payee or endorsee. He should sign the document exactly as it is written in the document, even if his name has been misspelled or his designation has been entered improperly. Later, if he chooses, he may add his legal signature in the same handwriting. Payment of an instrument on which an alteration is not immediately apparent: If a promissory note, bill of exchange, or check has been materially altered but does not appear to have been so altered, or if a cheque is presented for payment but does not immediately appear to have been crossed or to have had a crossing that has been erased, payment thereof by a person or banker liable to pay, and paying the sum in accordance with the apparent tenor thereof at the time of pa. When a customer's signature on a check is forged, the paying banker is responsible.

Section 128 states that when a crossed check is paid in full to the banker on whom it is drawn, both the banker paying the check and, in the event that the check is received by the payee, the drawer, will each be given the same rights and placed in the same position as they would be if the amount of the check had been paid to and received by the true owner, respectively.

1. The Supreme Court ruled in Canara Bank vs. Canara Sales Corporation and Others that when a customer's signature on a check is fake, the bank is not required to pay. The customer's account cannot be debited by the banker for such a fake check. The bank did not have the right to pay a check with a fake signature since the relationship between the client and the bank is one of creditor and debtor. As there would be no requirement on the bank to pay, the bank would be breaking the law if it debited the consumer for the amount of the fake check. The Supreme Court emphasized that the

document including a falsified copy of a check with the customer's name as the drawer was just void. Only if the bank could prove adoption or estoppel would it be successful. The Supreme Court cited its prior ruling in Bihta Co-operative Development and Cane Marketing Union Ltd. v. Bank of Bihar in making its decision.

2. The Supreme Court stated in the case of Bihta Co-operative Development and Cane Marketing Union Ltd. v. Bank of Bihar that "one of the signatures was forged so there was no mandate by the customer at all to the banker and the question of negligence of the customer in between the signature and the presentation of the cheque never arose. As a result, if one of the signatures on a joint account is fake, there is no mandate and the banker cannot make a payment.

For the bank to seek protection, payment must be made promptly.

1. The Supreme Court ruled in the case of "Bank of Bihar vs. Mahabir Lal" that a banker may only request protection under 85 after payment has been given to the holder, his servant, or his agent. In other words, payment must be paid promptly. Payment to a third party or to a representative of the Bank would not be considered a payment to the company. In this instance, the bank trusted one of its workers to accompany the firm's partner to the wholesalers with the cash instead of giving it directly to the partner to be given over to them. However, the Potdar fled before the money could be given to the wholesalers.
2. In the matter of Bhutoria Trading Company v. Allahabad Bank, the Calcutta High Court had the opportunity to assess whether a Bank had paid payment in due course or not. The Court found that:

According to Section 10 of the Negotiable Instruments Act, "the expression payment" in due course refers to payment made to any person in possession of the instrument in good faith and without negligence in accordance with the apparent tenor of the instrument under conditions that do not give rise to a reasonable basis for believing that he is not entitled to receive payment of the amount therein mentioned. There is little doubt that the defendant bank's payment of the disputed check was made in conformity with the apparent tenor of the check. The check is made out to the plaintiff or the order and is not crossed. Through its manager, the plaintiff endorsed the check. The Company's seal, which is obviously a legitimate seal, confirms that Jethmall is the Manager. The Manager's seal is likewise as genuine. For all practical reasons, it has not been contested that the payment was made in good faith. The Court is not in possession of even the slightest shred of evidence suggesting that the payment was not made in good faith. The issue of who has the burden of establishing good faith is far less relevant now that the Court has access to all of the information. The bank has not been found to have been negligent. The defendant bank demanded that Jethmall be identified, and Kishanlal Maheswari, a member of the bank and defendant No. 3, in fact did so. Therefore, the defendant bank took all necessary safeguards even though there was no cause to believe that Jethmall was not entitled to receive payment of the amount specified in the check given the circumstances in which it was submitted for payment. The bank paid the check to Jethmall, who was in possession of it, in line with the apparent tenor of the instrument, in good faith, and without carelessness, thus the defendant is entitled to win since the plaintiff was unable to demonstrate the claimed unfair trade conduct. There was no cause to believe that he wasn't qualified to receive the check payment due to any conditions. The bank's timely payment must be accepted as fact. According to our judgment, the learned Judge correctly noted that payment in due process included payment in the usual course.

Depending on the specifics of a case, it might be difficult to determine if a bank's payment was timely. The court determined that payment to a liquidator against a check presented over

the counter was not a payment in due course and that the bank was not eligible to seek protection under Section 85 of the Negotiable Instruments Act in the case of Madras Provincial Co-operative Bank Ltd. vs. Official Liquidator, South Indian Match Factory Ltd. The Court determined that an official liquidator was obliged under section 244A of the Indian Companies Act, 1913, to create an account with a bank and deposit any funds received during the liquidation there. All invoices and other securities owing to the firm or to the liquidation were required to be placed in a bank as soon as they came into the liquidator's possession, according to Rule 66 of the Rules established by the Madras High Court under the Act. The Bank was informed by the check itself that it was made payable to the liquidator in his official role. The bank requested the sequence of his appointment, indicating that it fully understood this. Banks knew—or were presumed to know—that the payee could only get this money via his own bank, making the payee's request for payment over the drawee's counter very inappropriate.

Payment of an Instrument on which Alteration is Not Evident in Good Faith and Without Negligence

1. In Bank of Maharashtra v. M/s Automotive Engineering Co. 2 SCC 97, the Supreme Court took into account the implications of sections 10, 89, and 31. The issue that needed to be addressed in this appeal was whether the paying bank was required to retain an ultraviolet ray lamp and examine the check under the light even if there was no defect visible upon visual inspection. According to the Supreme Court:The paying banker of a check that has been significantly changed but does not seem to have been so altered is protected under Section 89 of the Negotiable Instruments Act if payment was made in accordance with the apparent tenor of the cheque at the time of payment and otherwise in due process.Payment in due course is defined in Section 10 of the aforementioned Act as payment made to any person in possession of the instrument in accordance with the apparent tenor of the document in good faith and without negligence under circumstances that do not give rise to a reasonable basis for believing that he is not entitled to receive payment of the amount therein mentioned.

According to Section 31 of the aforementioned Act, the drawee bank must pay the check when needed to do so if it has enough of the drawer's money in its possession that are legitimately relevant to the payment of such a check. After reviewing the evidence, the courts determined that it was impossible to see any indication of forgery or tampering with the check's writings. It was discovered that the agent of the appellant bank had checked the serial number and signature on the check, compared those signatures to the respondent's sample signature, and found no imperfections upon visual inspection. The appellant bank had adequate monies in the drawer, thus there was no reason for it to have any doubts about the validity of the check given its apparent tenor. There was no proof to support the claim that the payment was not made sincerely. It would not be sufficient to hold the appellant bank negligent simply because the ultraviolet ray lamp was not kept in the branch or that the aforementioned cheque was not subjected to such lamp, especially since there is no proof that the appellant bank's other branches or other commercial banks had been routinely inspecting each and every cheque or cheques involving a specific amount under such a lamp as an extra precaution. Even though the cost of such scrutiny was minimal and it might be desirable to keep such a lamp at the branch to use in appropriate circumstances, it is not correct legal proposition to say that the bank was required to verify the cheque for further scrutiny under advanced technology or, for that matter, under ultraviolet ray lamp in addition to visual scrutiny in such circumstances. The branch was in an industrial area where check forgery was common, and other branches of the appellant bank had such lamps, so the courts were not

justified in finding that the bank had not exercised reasonable care in passing the check for payment without subjecting it to further scrutiny under an ultraviolet ray lamp.

2. In Brahma Shumshere Jung Bahadur vs. Chartered Bank of India, Australia, and China, the Calcutta High Court was asked to weigh in on the protection afforded to bankers under Section 89. The court determined that the payment was made in accordance with the apparent tenor at the check since no alterations or obliterations were discernible at the time of payment. Furthermore, the bank could not have been suspicious since the drawer had previously issued checks that were both written by him and others and signed by him. The Court also determined that the phrase "liable to pay" in 89's third paragraph encompassed a responsibility to pay under an overdraft arrangement in the same way that it would for a regular deposit account. Regarding exceeding the overdraft limit, the court determined that there was never a set cap and that it changed depending on the securities placed.

3. Tanjore Permanent Bank against S.R. In the matter of Rangachari, the High Court was asked to make a decision after the bank requested protection under section 89. The Court determined that the payment made by the bank was not in accordance with the apparent tenor of the instruments because the material alteration on both cheques was visible and they were not authenticated by the drawers' initials. As a result, the bank cannot claim protection under Section 89 of the Negotiable Instruments Act. In order to reach the aforementioned decision, the Court used the following section of Bhashyam and Adiga's Negotiable Instruments Act:The bank must also check the check for modifications and ensure that it has been validated correctly. Therefore, the bank will be paying the amount on the aforementioned cheque at its own risk when an adjustment in a check is initialed by only part of the drawers rather than all of them. In this regard, it is important to note that the bank cashing a check is protected under Section 89 when the change is not immediately obvious.It should be emphasized that under Section 89, the bank may only request protection if the check has been materially changed and does not seem to have been altered. This does not, however, shield a banker against forgery of the customer's signature. As previously indicated, a forged check is not the customer's mandate, and as a result, the bank cannot pay on a check bearing the customer's falsified signature. Whether or not a signature is forged relies on the evidence, and if the court determines that the signature is faked, it will consider the events leading up to the payment of the check.

4. Naval Kishore N established an account with the bank by making a cash deposit of $19,900 in Bareilly Bank Ltd. vs. Naval Kishore N. N received a checkbook with 25 checks in it. N initially wrote a check for '5,900 17 months after the account was opened, but the bank refused to honor it. N was told after asking that the bank had paid three checks totaling '19,500 11 months before and that the account's current balance was only '437. N sued the bank and claimed that she did not issue the checks. In the evidence, it was shown that the three checks used to withdraw the money were not from the checkbook given to N, but rather from another checkbook. Although the bank was unable to explain this error, they made an effort to refute N's claims by displaying a sample of his signature that looked to be identical to those on the checks. N, however, insisted that the supposed specimen signature was not his, and the court came to the conclusion that it was completely different from N's ordinary signature.

The ledger page for N's account indicated that certain erasures and scorings were done, and N's signature was absent from the cheque book issuing register, providing more evidence that the bank's own staff were complicit in the forgery. As a result, the court declined to accept the bank's argument.

Whether a payment made by mistake is recoverable

In United Bank of India vs. AT Ali Hussain & Co., the Calcutta High Court explored the issue of whether a bank is able to recover a forgery from the payee. The High Court ruled that the payee must return the money to the payer as long as the status quo is maintained and he hasn't altered his circumstances to his disadvantage. However, if the payee's situation has changed and he, acting in good faith, transfers money to someone else without any profit to himself before the error is discovered, he is not accountable. Equity is opposed to unfair enrichment. When the payee did not unjustly profit himself by benefiting from an unplanned windfall, he should not be punished because he would be just as innocent as the payer who paid the money in error.

CONCLUSION

In conclusion, the legal elements of banking operations are essential to maintaining the financial sector's integrity, responsibility, and stability. For banks to function ethically and productively, compliance with regulatory frameworks in contracts, client protection, AML, data privacy, and dispute resolution is essential.

By placing a high priority on legal compliance, banks may develop a positive reputation, increase client trust, and support a robust and efficient financial system. In the digital age, when banks manage enormous volumes of consumer data, data privacy and protection are becoming more and more important.

Banks are legally required to manage client information responsibly and securely in order to preserve customers' privacy and prevent possible data breaches that may have serious repercussions. Furthermore, preserving confidence in the banking industry depends on the legal aspects of dispute settlement. Timely settlement of disputes between banks and their clients is made possible through transparent and effective dispute resolution systems, increasing consumer satisfaction and the reputation of banks.

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CHAPTER 13

A STUDY ONLEGAL ASPECTS OF COLLECTION OF A CHEQUE

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ABSTRACT:

The legal aspects of the collection of a cheque form an essential element of banking operations, governing the rights and responsibilities of both the payer and the payee. This paper examines the legal framework that regulates the collection process, including the rights and obligations of parties involved, the role of banks, and the legal remedies available in case of dishonored cheques. By analyzing case law and relevant legal literature, this study sheds light on the significance of legal compliance in cheque collection, its impact on customer confidence, and the measures to prevent cheque fraud and abuse. The findings provide valuable insights into the complexities of cheque collection in the context of banking operations and the importance of legal adherence for maintaining a reliable and efficient payment system.The legal aspects of the collection of a cheque are of paramount importance in facilitating secure and efficient payment transactions. Both the payer (drawer) and the payee (holder) have rights and obligations under the legal framework governing cheque collection.

KEYWORDS:

Account Holder, Bank Endorsement, Bouncing of Cheque, Cheque Dishonor, Crossed Cheque, Drawer.

INTRODUCTION

A banker's collection of checks, bills of exchange, and other instruments on behalf of a client is an essential function. A bank client who gets a check drawn on another bank has two options: either pick up the check in person or via an agent at the drawee bank, or submit the check to their banker for collection from the drawee bank. The banker assigned to collect the cheque's value from another banker in the latter scenario is referred to as the "collecting banker." When the check is realized, he hands it over to the drawee banker for encashment and credits the customer's account with the amount.Although a banker is not required by law to collect his or her customers' checks, this task has grown more crucial as banking habits have spread and crossed checks have been more widely used[1], [2]. Crossed checks must always be collected via a banker.

When a banker picks up a customer's check, he or she may be acting as the customer's representative or as a holder of value. Therefore, the capacity in which the collecting banker collects the checks determines his legal status. Before the amount of the check is actually realized from the drawee banker, the collecting banker is considered to be its "holder for value" if it pays the client the amount of the cheque or credits such amount to his account and allows him to draw on it[3], [4]. He obtains a promise from the client that, in the event the check is not honored, the latter will refund the former.A banker becomes its holder for value by giving its value to the customer in one of the following ways: by lending additional money based on the strength of the check; by paying over the full amount of the check or a portion of it in cash or in an account before it is cleared; by agreeing then or earlier or as part of routine business that the customer may draw before the check is cleared; by accepting the check in avowed reduction of an existing overdraft; and by handing out cash over the counter[5], [6].

In each of these scenarios, the banker takes on the roles of both the holder for value and the holder in due course. He carries the responsibility and has the privileges afforded by the bearer of value. He will be held accountable to the real owner of the check if it turns out that all but one of the endorsements were fake. However, if the client is unable to pay, the lender will be responsible for the loss and has the right to retrieve the money from the final endorser, who is his own customer. The collecting banker may file a lawsuit against all preceding parties after serving them with notice of dishonor if the collected check is returned as dishonored. However, it is crucial that the consumer receives the cheque's full amount in a trustworthy manner[7], [8].

Collecting Agent: A Banker

If a collecting banker credits the customer's account with the amount of the check after the money has actually been received from the drawee banker, the latter is seen to be acting as the customer's agent. After then, the consumer has the right to withdraw the check's value. Thus, the banker represents the consumer and collects a fee from him in order to collect the money from distant banks. The collecting banker does not have superior claim to the check than his client does since he is acting as his representative. The collecting banker cannot have proper title to the check if the client lacks title or if his title is flawed. He will be charged with money conversion, or unlawfully interfering with the rights of the genuine owner of the check, if the check he collected did not belong to his client[9], [10].

By the Collecting Banker: Conversion

A banker may face charges for improperly converting checks to which his client has no or invalid title. Conversion denotes an improper or illegal intrusion on another person's property that is inconsistent with the owner's right of possession. Since a banker may be punished for conversion if he collects checks for a client who has no title or a defective title to the instrument, negotiable instruments are included in the definition of "property." The fundamental tenet is that anybody who steals anything without permission and whose hands it may be found can be held accountable by the legitimate owner of the item. The banker cannot avoid this responsibility when he serves as the customer's representative to collect his checks. The right of the genuine owner, however, is limited and cannot be utilized if the commodities are received by someone who does so in good faith, for value, and without knowing that the other party lacked the necessary power. In all other cases, the rightful owner of the items may bring a conversion lawsuit.

DISCUSSION

Statutory Protection to Collecting Bank

Section 131 of the Negotiable Instruments Act grants protection to a collecting banker and reads as follows:

Non-liability of a banker receiving payment of a cheque: In the event that the title to the cheque turns out to be faulty, a banker who in good faith and without negligence received payment for a customer of a cheque crossed generally or especially to himself shall not be liable to the true owner of the cheque simply by virtue of having received such payment. Despite having credited his client's account with the cheque's amount before to receiving payment, a banker is nonetheless considered to have received payment of a crossed check on behalf of that customer.

According to Section 131 A of the Negotiable Instruments Act, the terms of the previous paragraph have been applied to drafts.Protection is given to a collecting banker under Section

131, however there are certain restrictions. The following requirements must be met in order for the collecting banker to claim the protection provided by Section 131:

1. The banker in charge of collections ought to have performed honestly.
2. He ought to have exercised caution.
3. He need to be compensated for a client.
4. The check should be crossed to oneself generally or specifically.

The Collecting Bank's obligations

The collecting bank is protected by Section 131 of the Negotiable Instruments Act, but only under certain circumstances, one of which is that the bank should not have been careless. The bank must demonstrate that it has taken all reasonable procedures that a competent banker would be expected to take when collecting a check in order to establish that it was not careless. These measures have been established through time as responsibilities placed on bankers based on experience and court declarations; failure to comply with them may subject the bank to liability for negligence. We'll now look at each of these obligations separately.

Accounts must be opened with references and enough documentation evidence. It would be difficult to locate an account without introduction since the requirement to establish an account only after the new account holder has been properly presented is too deeply ingrained in today's bankers' minds. To deter thieves and fraudsters who could create accounts to receive forgeries of checks or other instruments, it is essential to secure an introduction from a trustworthy client. As an additional measure of security, the RBI has mandated that while establishing accounts, a customer's image and appropriate documentation verification of their residence and constitution must be collected. The English ruling Ladbroke vs. Todd 30 TLR 433 might be used in this context. In one instance, a thief stole a check as it was being delivered, then cashed it by opening an account without a reference with a banker and pretending to be the payee whose signature the criminal forgeries. The thief took the money once the check was cashed. Since the bank opened the account recklessly since it didn't have any references, it was deemed accountable to pay the money.

The appellant created an account in the name of "M/sAxle Conductor Industries Ltd. by the Proprietor, R.K. Vyas" in the case of Syndicate Bank v. Jaishree Industries and Others (AIR 1994 Karnataka 315). One Nanjunde Gowda, who operated a small store at the location provided by the account holder, provided the introduction. The account holder's address, as provided by the account holder, was directly across from the Appellant Bank. The account holder's name was listed as "M/ Axle Conductor Industries by the Proprietor R.K. Vyas" on the account opening form. The incorporation of the account holder was not investigated, nor were the Memorandum of Association, Resolution, etc., looked through. Partners of Firm "A" acquired a draft from State Bank of India, Ahmednagar, on January 3rd for Rs. 2,51,125 in favor of M/s Axle Conductor Industries Ltd. On October 5, 1979, the draft was put in the appellant's account. On October 9, 1979, the appellant received the money and credited the account. The funds were removed from the account on October 10, 1979. In order to recover the $2,51,125 that the appellant improperly collected and the State Bank of India improperly paid, the partners of "A" filed a lawsuit against both parties.

The staff of the Appellant Bank did not take sufficient care even to notice the word "Ltd." on several occasions, such as when the account was opened or money was withdrawn from the account, according to the High Court, which found that the proper procedure for opening an account in the name of a limited company was not followed. The account was opened as if it were a proprietary concern. The appellant bank inexplicably permitted the account to run in the name of the limited business, according to the High Court, despite having approved the

application as if it had been submitted by a proprietary firm. Therefore, the Appellant Bank acted carelessly throughout the whole transaction. The following requirements must be met in order to be eligible for protection under Section 131 of the Negotiable Instruments Act: the banker must act in good faith and without negligence when receiving payment, i.e., during the collection process; the person for whom the banker acts must be the banker's customer; the cheque must be for a specific amount; and the banker must act as a mere agent and not the account holder; and the cheque must be for a specific amount.

In order to determine whether the bank behaved carelessly or not as a collecting banker, the High Court ruled that if the draft was issued in favor of a fictional person, it could not be claimed that ownership had been transferred to that person. The genuine owner would then get ownership. The High Court did not deem it essential to determine the degree to which a person who obtains a draft in favor of a fictional person would eventually lose possession in favor of a legitimate holder. Due to the aforementioned, it was determined that the Appellant Bank behaved carelessly, was consistently negligent, and was not entitled to the protection provided by Section 131 of the Negotiable Instruments Act. The Madras High Court had the opportunity to assess the collecting banker's incompetence in Indian Bank vs. Catholic Syrian Bank (AIR 1981 Mad 129), which included an account that was created following a valid introduction.

Briefly stated, D held a new account with the Salem branch of bank A. D was brought to the office by a client of that branch, who told the manager that D was a guy from Indore who wanted to create a bank account so he could buy carpets from Salem. Despite bank A's assertions that the client who had referred D was a prominent merchant in Salem and a well-known bank A client with a sizable amount of business, it was determined in the evidence gathered by the Court that these assertions were untrue. The introducer had accounts with bank A as well as certain fixed deposits. The transactions were for a pitiful sum, and the introducer's credit balance at the time of the relevant transaction was merely '192.57.

M acquired a demand draft for $20 from the bank B's Singanallur branch on June 12, 1969. The draft was made out to D and company on the branch of bank B. The draft was changed such that D was drawn to get 29,000 by cunning forgery. On June 13, 1969, D delivered a draft for credit to his account with Bank a’s Salem branch. Bank A collected the funds from Bank B and credited D's account. On June 14, 1969, Bank B's Salem branch learned through its Singanallur branch that a draft for $20,000 had been issued in favor of D and Company, due in Cochin, and that a draft for $29,00 had not been issued. Immediately after being notified of the scam, bank A's Salem branch was called. Unfortunately, at that time, bank A had already paid a significant portion of the draft amount to D via a self-cheque.On the grounds that the collecting banker had been careless while creating an account in the name of D and because of its carelessness and lack of good faith, the forged draft ended up being incorrectly converted, bank B filed a lawsuit against bank A for the recovery of $29,000 in damages.

The collecting banker created the account in the name of D based solely on the introduction of one of its account holders, the High Court said, fully aware that the said account holder was not a well-known major merchant and had no significant business with it at the relevant time. Furthermore, before enabling D to create an account, the collecting banker had not independently inquired into D's company and credit worthiness. When D said he was from Indore, the manager of the collecting banker didn't even bother to ask him for his permanent address, especially because D had submitted an application for an account opening using the introducer's address as the one provided. Additionally, the collecting banker should have been more cautious before creating the account when D informed the Manager of the collecting

banker that he had not yet established any accounts while traveling from Indore to Salem for business. Where the referee is unknown or provided a reference in absentia, it is the duty to corroborate the reference. Although it is customary for Indian bankers to ask for an introduction from a current client, this may not always be available, particularly if the branch has just opened. In such circumstances, consumers are needed to get references from well-known locals or from their current lenders. In this situation, the banker must contact the referee to ensure that the individual whose account is being established is a real person.

Following the completion of the required requirements, a new customer's account was established in Harding v. London Joint Stock Bank 3 Legal Decision Affecting Bankers 81. Instead of opening the account with a cash deposit, as is customary, a third-party check was used instead. When the bankers in the case questioned the consumer, he then provided a bogus letter from his company granting him authority to handle the check. Later, it was discovered that the client had stolen the check and credited it to his account. The bank was accused of negligence for failing to contact the employer to determine if the client, an employee, really had the authority needed to handle the check.

Responsibility for Crossing and Unique Crossing

The banker must make sure that the check is crossed exclusively to him, and if it is crossed to another banker, they must refuse to accept it. Similarly, if a check is passed to a certain account and is credited to another account without making the proper inquiries, he would be held accountable for carelessness. A banker cannot be held liable for negligence in the event of "non-negotiable" crossings just because they have collected such instruments. In Crumpling v. London Joint Stock Bank Ltd. All England Rep 647, it was decided that a non-negotiable crossing is only one of the factors to be taken into account when determining the bankers' negligence and that the mere act of accepting a non-negotiable check cannot be regarded as proof of the bankers' negligence.

The instrument that is provided for collection may sometimes serve as a warning to the banker that the client presenting the instrument for collection is either breaking a trust or stealing money from someone else. As can be seen from the following examples, if the banker disregards the warning, which is expected of a cautious banker, he may be held accountable for carelessness.In Underwood Ltd. vs. Bank of Liverpool Martin Ltd. 1 KB 775, the managing director of a company paid a significant number of checks into his personal account that were intended to be deposited into the company's account. The bank was found to have committed negligence by failing to verify the Managing Director's entitlement to the funds represented by these checks. In Savory Company v. Llyods Bank 2 KB 122, the employee collected the employer-payable checks in a private account he had set up, and the bank was found negligent. In this instance, two dishonest stockbroker employees stole bearer checks that belonged to their employer and were deposited in accounts that were both managed by one of the employees and one that belonged to his wife. It was determined that the bank had opened the clerk's account negligently in that they had neglected to obtain the name of his employer while doing so, and that the bank had opened his wife's account negligently in that they had neglected to obtain both the husband's occupation and the name of his employer while doing so.An agent deposited his principal's check into his personal account in the case of Australia and New Zealand Bank vs. Ateliers de Constructions Electriques de Cherleroi 1 AC 86 PC, and the bank was accused of conversion. The bank disagreed, arguing that the principle had impliedly given his agent permission to utilize his private account for that reason. Despite the banker's negligence in handling the checks without express authorization, the bank was exempt from responsibility since it was discovered that the principle had in fact given his agent permission to utilize his personal

account. In Morrison v. London County and Westminster Bank Ltd. All ER Rep 853, the plaintiff's manager was given permission to write checks on behalf of his company. He made several checks payable to himself and deposited the proceeds into his personal account. Even though there was very strong evidence that the Manager was signing as a representative of the company, the bank was found to have been irresponsible for collecting such checks without doing the requisite inquiries.

Duty to consider the Status of the Customer's Account

In order to understand the customer's situation and style of living, the collecting banker must consider the customer's status as well as the numerous transactions that have occurred in the customer's account. It would be the banker's responsibility to take the necessary precautions when collecting such checks if, for instance, a person is an employee and the nature of his employment is that of a clerk. The bank would be aware of the employee's salary and any significant credits obtained through the collection of checks would be suspect.

The plaintiffs in Nu-Stilo Footwear Ltd. v. Lloyds Bank Ltd., 7 Legal Decisions Affecting Bankers P. 121, were a maker of women's footwear. Their secretary and works accountant deceived them by depositing nine of the plaintiffs' checks into his account. The Secretary provided his actual identity as a reference while opening the accounts at the defendant bank under a fictitious name. The bank then contacted the reference and received a positive response, which included information indicating that the account holder had just moved from Oxford and wanted to launch his own firm. The Secretary then gave 9 checks totaling £4855 to the recipients. The plaintiffs filed a lawsuit against the defendant bank that had collected the checks since these checks were drawn on them. The collecting bank was found to have been negligent by the court in that it failed to take the appropriate measures since the sums collected did not match the account holder's company, necessitating further investigation on the bank's part.Negligence on the part of the collecting bank while collecting third-party check payments.

Before any third-party checks are collected on behalf of its client, the collecting bank is required to do the requisite investigations.

One person utilized checks made out to "the Officer in charge, Estate Office, Canadian Overseas Military Force" to settle his obligations in Ross v. London County Westminster and Parrs Bank Ltd. 1 KB 678.

Every check included a clause stating that the responsible officer might negotiate it. It was decided, nonetheless, that the fact that the checks were made payable to the officer in charge should have prompted the banker to inquire, and because the banker failed to do so, the bank is responsible for its actions due to carelessness.

Guarantees And Indemnities

Indemnities

A banker encounters situations where he must safeguard his interests in the event of specific transactions during routine banking operations. An additional draft or receipt for a fixed deposit may be requested by a client from a banker. The banker should issue the duplicate draft and/or fixed deposit receipt against an indemnity in these circumstances to safeguard against any potential loss. Indemnity is defined as follows under Section 124 of the Indian Contract Act, 1872: "A contract by which one party promises to safeguard the other from damage caused to him by the behavior of the promisor himself, or by the conduct of any other person, is termed a 'Contract of Indemnity'.

If there is a loss, indemnity is available. The indemnity principles form the foundation of the insurance contract. The general insurance companies want to pay the loss to the asset or property covered by the various insurance policies, whereas the life insurance companies are willing to cover the loss of life. The "indemnifier," who makes the promise or commitment, and the "indemnified," to whom the promise is made, are the two parties engaged in the indemnity contract.

The bank gets an indemnity before producing a duplicate fixed deposit receipt, and the indemnifier is required to provide all information pertaining to the original receipt. There will be provisions in the indemnification that safeguard the bank's interests. If the indemnifier is able to find the original, he or she will promise not to use it and to turn it over to the bank. He additionally promises to pay for any losses the bank may suffer as a result of issuing such duplicate fixed deposit receipts.

Guarantees

Banks provide various credit facilities, including loans, advances, bank guarantees, and letters of credit. Banks provide non-fund-based restrictions to clients to make it easier for them to conduct trading and commercial operations. Front-end fees for bankers are possible, and these non-fund-based things turn into contingent liabilities for banks. The Indian Contract Act of 1872 includes a guarantee contract. A guarantee is described in Section 126 as a contract that releases a third party from obligation in the event that he breaches a commitment. The guarantee agreement may be verbal or written. But banks need written assurances. The guarantee contract has three parties. Surety, Principal Debtor, and Creditor are their names. These individuals are also referred to as the beneficiary, borrower, and guarantor. Two sorts of guarantees are handled by banks: those that the bank accepts and those that the bank issues.Banks take securities into consideration when extending credit.

A borrower arranges to provide personal security provided by a surety in addition to the actual assets. This is known as a third-party guarantee, and it involves someone agreeing to pay the bank the whole amount borrowed, plus interest and any additional fees that may apply, in the event that the primary borrower defaults or is unable to make payments. Additionally, corporations that execute corporate guarantees in accordance with a decision from the board of directors are suing them to banks. The surety's responsibility is joint and several with the primary debtor's according to Section 128 of the Contract Act, 1872. For instance, based on the personal guarantees of Q and S, Bank MNC approved P for a term loan of Rs 10 lakhs. Bank MNC is the creditor in this instance. P stands for the major debtor or borrower. The sureties or guarantors are both Q&S. Both Q&S are responsible for paying the bank's debts in the event that P defaults on repaying the obligation owed to the Bank MNC.

Assurances provided by the Bank

A bank guarantee is an assurance made to a third party by a banker that, in the event that the bank's client fails to perform, the guarantee will be honored. A bank guarantee is a binding legal agreement that may be required by law. In the event that the customer fails to uphold his obligation to the beneficiary, the banker acts as guarantee and promises the third party that he will pay him a certain amount on the client's behalf.

CONCLUSION

In conclusion, the legitimacy and integrity of the payment system are maintained by adhering to the legal issues of check collecting. Respecting the law makes sure that both the payer's and the payee's rights are upheld and that disputes are settled quickly. A well-managed check

collecting procedure promotes client trust in the banking industry, aids in a smooth payment process, and boosts the general effectiveness of financial operations.

The legal framework establishes strong penalties for issuing dishonored checks with malicious intent in order to deter cheque fraud and misuse. Additionally, initiatives taken by banks to detect suspicious activity and lower the risk of fraud include regular reporting of transactions above a specific level and obligatory Know Your Customer (KYC) regulations.

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CHAPTER 14

OPERATIONS IN DEPOSIT ACCOUNTS AND COMPLAINTS OF CUSTOMERS

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ABSTRACT:

Operations in deposit accounts form a critical aspect of banking services, involving various transactions, such as deposits, withdrawals, transfers, and interest accruals. This paper examines the complexities and legal aspects of deposit account operations, focusing on the rights and obligations of both banks and customers. Additionally, the paper explores the common complaints raised by customers regarding deposit account operations and the mechanisms in place for complaint redressal. By analyzing case studies and relevant literature, this study sheds light on the significance of smooth deposit account operations, the importance of customer satisfaction, and the role of complaint resolution in maintaining trust and confidence in the banking sector.Banks have the fiduciary responsibility to handle deposit account operations accurately and efficiently, while customers have the right to expect a seamless and transparent banking experience.

KEYWORDS:

Account Closure, Account Opening, ATM Transactions, Balance Inquiry, Bank Charges, Cash Withdrawals.

INTRODUCTION

Account holders must be given access to the Savings Bank Rules upon establishing their accounts. In relation to all forms of deposit accounts, including fixed, recurring, cumulative, etc., photographs of all depositors/account holders, whether resident or non-resident, shall be collected, with the following exception: Accounts of Staff Members; Banks, Local Authorities, and Government Departments[1], [2].Banks are not required to need the account holder's physical presence in order to cash "self" or bearer checks unless the situation calls for it. Specimen signatures cannot be replaced by images. There is no need to have separate photos for each kind of deposit; just one set of photos will do. 'Pardanishin' woman photos must be acquired. Additional accounts don't always need to need brand-new photos. Account holders should be fully advised of the minimum balance requirement, extra fees, etc. when their accounts are opened[3], [4]. Periodically, customers must be informed of fee revisions.

In the event that clearing operations are temporarily suspended or there is concern that the stoppage may last longer, banks may buy checks, drafts, and other items put in the account for clearing. Customers are given access to this facility after a thorough evaluation of their creditworthiness, honesty, previous transactions, employment status, etc., in order to protect them against the possibility of the instrument being later dishonored. All clients must always be given Savings Bank Pass Books[5], [6]. Customers should get account statements in the mail on a regular basis. These amenities need to be provided at the expense of the Bank. The banks should also set up regular updates to the pass book. In order to minimize difficulty to depositors, banks should avoid using excessive entries in pass books and statement of accounts and make sure that just a few, easily understood details are always written. The entire location and phone number of the branch must always be included in the Pass Books and Statements of Accounts that are sent to account holders, according to bank regulations.

Regardless of the customer's preferred language, including any regional languages, all cheque forms should be printed in Hindi and English.Banks will pay for checks displaying dates in Hindi according to the National Calendar if everything else is in line. To prevent the payment of expired checks, banks may find the date on the Gregorian calendar that corresponds to the National Saka calendar. Along with the cheque leaf, banks must provide the Indian Financial System Code and Magnetic Ink Character Recognition code in every account holder's passbook or statement.

Deposit Account for Term

Banks must provide term deposit receipts that include all pertinent information, including the date of issuance, the deposit period, the due date, the appropriate interest rate, etc. Transferring Term Deposit Receipts freely across bank offices is possible. In order to provide better service, banks should make sure to notify their depositors well in advance of the looming due date of maturity. The clients should be informed well in advance of any changes to the interest rate. Interest shall be paid proportionally for the actual number of days counting the year at 365 days or 366 days in case of a leap year for deposits repayable in less than three months or when the terminal quarter is incomplete. At the request of the depositor, banks may permit the early withdrawal of Term Deposits, and interest will be paid on the deposit for the time that it has been with the bank at the relevant rate. Banks are able to set a penalty interest rate for such withdrawals. Where premature withdrawal occurs before the minimum term required has been completed, no interest is required to be paid.The bank may allow for the insertion or deletion of joint account holders' names. The duration and total amount of the deposit, however, shouldn't alter. Banks may also permit splitting of joint deposits in the names of each joint account holder, provided that the deposit's time and total amount remain the same[7], [8].

Upon receiving a valid request letter for renewal, banks may reactivate frozen accounts. There will be no renewal receipt given, but the deposit account may be sui notated. The relevant Enforcement Authority may be informed of the renewal of the deposit via registered mail, speed mail, or courier.

According to the banks' policy, overdue interest may be paid. Banks are expected to make sure that all of their clients who want to deposit cash at the counters may always do so in their local branches. No product may be created that does not adhere to the fundamental principles of banking, namely the acceptance of currency. Despite legal restrictions, opening fixed/recurring and savings bank accounts in a minor's name with their mother as guardian is permitted as long as the bank takes adequate precautions to prevent overdrafts and to ensure that the accounts are always in the positive.

Present Balances

When establishing a current account, banks are required to get a statement stating that the account user is not using any credit facilities from another bank. Specifically getting a No-Objection Certificate from the lending bank is required for banks to establish current accounts for companies that benefit from credit facilities from the banking system. If after waiting for a week no reaction from its current bankers is received, the bank may open the account of the potential client.

The scenario might be examined in light of the data the potential client gave and with the necessary consumer due diligence. When a corporate entity receives credit facilities from numerous banks, the banks shall perform due diligence and notify both the concerned banks and the consortium leader, if the corporate entity is part of a consortium[9], [10].

Transactions at ATMs

Banks are expected to respond to complaints within seven working days of receiving them. The issuing bank shall compensate the consumer for any delay in crediting the funds by charging them $100 each day. Sui applications for compensation must be submitted within 30 days after the transaction date. The issuing bank and the acquiring bank should resolve any disagreements about unsuccessful ATM transactions via the ATM System Provider solely. There may be no bilateral settlement agreement other than the applicable dispute resolution process with the system provider. According to the 2007 Payment and Settlement System Act, violations of the clause are subject to punishment. Banks must clearly indicate at ATM locations that complaints should be made to the branches where clients have accounts connected to the ATM, along with contact information for the bank that owns the ATM, such as a support desk and contact people. Every bank has to make sure the process flow is changed to allow for pin validation for every transaction, including balance inquiries made possible by ATMs. Failure to do so results in punishment. Regardless of the value involved card use at multiple channels, banks must have a system of online notifications in place for all sorts of transactions.

Collection of Service Fees

Banks need to make sure that the fixed service fees are fair and in line with what it costs to provide such services. Low transaction volume customers are not punished.

Prepayment fees and foreclosure costs - Home Loans

With immediate effect, banks are not allowed to impose or charge prepayment fees or penalties on home loans with adjustable interest rates.

DISCUSSION

Banking Hours/Working Hours/Operation

In the wider interest of the general public and the trade community, banks must be open for business at least 4 hours on weekdays and 2 hours on Saturdays. One-man offices, satellite offices, extension counters, and other specific classes of branches may operate for less hours as may be deemed essential. Banks may set whatever business hours are convenient, such as a double shift, a weekly holiday other than Sunday, or operating on Sundays as well, after giving consumers enough notice. In accordance with the rules, the bank offices in rural regions may set their business hours and weekly holidays to accommodate local needs. Banks in metropolitan and urban areas may implement the start of workers' working hours 15 minutes prior to the start of business hours.Banks must extend their hours for non-cash banking transactions until one hour before the end of business hours. In order to improve customer service, banks can set up evening counters on the premises of their existing branches in metropolitan and urban areas. The transactions made at these counters should be added to the main accounts of the branch where they are located. All branches, with the exception of extremely tiny ones, should have "Enquiry" or "May I Help You" counters at the entrance to the banking hall, either alone or in conjunction with other responsibilities. The banking hall should publicly indicate time standards as well. All Branch branches are expected to show the various goods and services they provide together with important information, such as service fees, interest rates, time limits for different financial transactions, and grievance redressal mechanisms, etc., categorized under 4 headings viz. According to the format supplied by RBI, the notice boards should display "Customer Service Information," "Service Charges," "Grievance redressal," and "Others" as indications. This would raise

customer satisfaction levels and improve the quality of customer care in banks. Additionally, the banks shall post information such as "Name of the Bank / Branch, Working Days, Working Hours, and Weekly Off-days" outside the branch premises in addition to the above Board. Banks must also make the detailed information on their website accessible to customers from the homepage, in booklet form on touch screens by putting them in information kiosks, Scroll Bars, or Tag Boards, and in booklet form on touch screens. The very minimum of information should be available on the website, such as Policy/Guidelines, Complaints, Account Opening/Forms, Loans and Advances, Branches, etc.

Account holders who are ill, elderly, or disabled - Operational Procedure

If the elderly, ill, or disabled account holder can leave a thumb or toe print, the withdrawal request may be approved. Two independent witnesses who are known to the bank must identify it, one of whom must be a senior bank executive. A mark may be acquired on the check or withdrawal form in cases when the client is unable to leave even a thumbprint and is also unable to appear in the bank. This mark must be verified by two independent witnesses, one of whom should be a responsible bank employee. In each of the aforementioned scenarios, the client may specify the person to whom the payment is to be paid, but two impartial witnesses must identify him. Asking the guy to provide his signature to the bank is appropriate. According to the advice IBA received, a client who lost both hands may nonetheless submit a toe imprint or any other mark. Banks are required to make the necessary arrangements so that the height of the ATM does not pose a barrier to a wheelchair user using it. This includes providing ramps for all current and future ATMs so that people with disabilities and wheel chairs can easily access them. Banks are expected to make sure that the visually impaired are always given access to all financial services, including third-party checks, ATMs, Net banking, lockers, retail loans, credit cards, and more, without any kind of discrimination.Banks may rely on the Guardianship Certificate issued by the District Court under the Mental Health Act or by the Local Level Committees under the aforementioned Act in order to open or operate bank accounts for disabled people who have autism, cerebral palsy, mental retardation, and multiple disabilities.

Remittance

Payments of $50,000 and above should only be made by debiting the customer's account or paying using checks. DDs of $20,000 and upwards must only have the "Account Payee" crossing. A DD is consistently valid for three months, and the process for revalidating it beyond that time should be streamlined. Within a week on the date of receipt of the request, unilateral indemnity without waiting drawing counsel may be used to issue duplicate drafts in replacement of lost checks for amounts up to and including '5000/-. If you wait over the deadline, the penalty clause will be applied.Banks may make sure that drop boxes and check-acknowledgment services are provided at collection centers, and no branch should refuse to recognize checks that are presented at the counter. The phrase "Customers can also tender the cheques at the counter and obtain acknowledgement on the pay-in-slips" should be displayed by banks on the drop box itself. With the agreement of their individual Boards, banks may set per-transaction restrictions depending on how risky they perceive mobile transactions to be. If they are submitted more than three months after the date of the document, banks are not required to pay checks, drafts, pay orders, or banker's checks bearing that date or any later date.

When a check is lost during transit, during the clearing process, or at the branch of the paying bank, the banks are liable to refund the accountholder's corresponding costs for procuring

replacement instruments as well as interest for any reasonable delays that occurred in doing so. The collecting banker has the responsibility, not the account holder.

Complaints

In addition to keeping a complaint book or register with perforated copies in each set, banks are obliged to have a complaints or suggestion box available at each office. A copy of the complaint and the branch manager's comment must be sent in a timely manner to the controlling office. The homepage of the website should include a complaint form and the name of the nodal official for complaint resolution to make it easier for users to submit complaints. The Board must analyze all complaints submitted in order to determine whether remedial action is necessary. The specifics, including the number of complaints received, resolved, awards made by the Ombudsman, etc., have to be revealed in the financial results. A suitable grievance redressal mechanism must also be implemented by banks, and its effectiveness in creating improvements in customer service in various areas must be continuously assessed.Banks should be cautious when creating and authorizing usage of deposit accounts in order to defend against dishonest people opening accounts primarily for the purpose of using them as a conduit for encasing fraudulent payment instruments, etc.When a departmental action or police interview is over, banks should pay the consumer according to their authorized customer relationship policy.

Banks must avoid from restrictive activities such tying the locker facility to the installation of fixed deposits or other types of deposits outside of what is expressly allowed. In the event that the locker-hirer does not maintain the locker or pay rent, banks may acquire fixed deposits to cover three years' worth of rent and the costs associated with opening the locker. Bank branches are obliged to have a wait list for the purpose of allocating lockers and to guarantee that the locker allocation process is transparent. At the time the locker is assigned, a copy of the Agreement may be given to the locker-hirer. For both new and current clients, banks may conduct customer due diligence, at least to the standards outlined for consumers deemed to be of medium risk. If the client falls into a higher risk group, customer due diligence in accordance with the KYC standards that apply to that higher risk category should be done. Banks should get in touch with the locker-hirer right away and urge him to either operate the locker or relinquish it if it hasn't been used for more than three years for lockers in the medium risk category or one year for lockers in the higher risk category. Even if the person renting the locker consistently makes rent payments, this activity still has to be done.

The locker hirer has access to a nomination facility that would allow for nomination, release of the contents of safety lockers or safe custody items to the nominee, and protection from notice of claim by other parties. A nomination facility could be made available in relation to deposits held in the names of specific individuals, including sole proprietorship businesses and safe deposit lockers or safe custody. There may only be one candidate in relation of a joint deposit account. Nominations should only be made in favor of people; they cannot be made on behalf of an association, trust, society, or other organization, or any officeholder acting in that capacity. In the event of a joint bank account, the nominee's right does not become effective until all depositors have passed away. Banks may let all remaining depositors working together to modify or revoke an existing nomination. This also applies to deposits with either or both surviving or operating instructions. Banks are obligated to notify depositors and locker renters in writing when the proper, properly completed forms of nomination, cancellation, and/or modification have been filed. Banks may begin the practice of noting the position about the use of the nomination facility with the caption "Nomination Registered" on the front of the passbook. This is also possible with receipts for term deposits.

Claims for Deceased Depositors - Settlement Process

Accounts with a nominee/survivor clause

If a deposit account is opened with a survivorship clause and there is a valid nomination, the bank may pay the remaining balance to the survivor or nominee of a deceased deposit account holder, which is considered a valid discharge of the bank's liability provided:- The bank has taken reasonable care to confirm the survivor/nominee's identity and the fact of the account holder's death by using the proper documentary evidence Regardless of the amount to the credit of the decedent's account holder, banks may refrain from requiring the submission of succession certificates, letters of administration or probate, etc., or obtaining any bond of indemnification or surety from the survivor/nominee.Banks may establish a minimal threshold amount for claim payment in dead deposit accounts without requiring the provision of any more documentation than indemnification. A language that prohibits premature termination of Term Deposit accounts may be included in the starting form itself. Any claim from a survivor or nominee regarding any balances held by deceased depositors must be resolved within 15 days of the claim's receipt, as long as the bank is satisfied with the claim's identification and the depositor's death certificate.

In the event of the death of the sole locker hirer, banks may grant access to the locker to the nominee with the freedom to remove the contents of the locker, and in the event that a joint locker is hired with the operational instruction to operate under joint signatures and a nominee is present, banks may grant access to the locker to the nominee with the freedom to remove the articles jointly. Banks may carry out the mandate in the event that one or more of the locker-hirers pass away if the locker was hired jointly with a survivorship clause and the hirers specified that access to the locker should be granted to "either or survivor," "anyone or survivor," "former or survivor," or in accordance with any other survivorship clause.Banks are expected to provide a user-friendly process for granting access to the legal heir or legal representative of the dead locker renter that was developed in cooperation with their legal advisors. The process for handling the items in the bank's safe custody should be the same. Before releasing items left in safe custody or allowing removal of the contents of the safe deposit box, banks must also create an inventory. When releasing items to the nominee and surviving locker heirs/depositor of the safe custody article, banks are not compelled to inspect sealed or unopened packets placed with them in safe custody or discovered in a locker. Banks are expected to provide the full process for enhancing customer service on their website.

Settlement of Missing Persons Claim Claims

After studying the legal advice and taking into consideration the specifics of each case, banks are obligated to develop a policy that would allow them to satisfy the claims of a missing person. Banks may set a threshold amount that claims in relation to missing persons may be settled up to without requiring the production of any documentation other than the FIR, the non-traceable report issued by police authorities, and the letter of indemnity, while keeping in mind their risk management systems.

Unclaimed Funds and Inactive Bank Accounts

If there have been no transactions in a savings or current account for more than two years, the account should be considered inactive or dormant. Savings bank accounts may be recognized as operational accounts if credits in the form of interest on fixed deposit accounts are received on the customer's instructions and can be considered customer-induced transactions. It won't stop working until two years have passed from the last credit entry of interest on the Fixed Deposit account. In the event that there have been no transactions for more than a year,

banks must contact the account holder's legal heirs, introducers, employers, or other accessible records to find out whereabouts. They may also use any other suitable method. Periodic interest should continue to be credited to inactive accounts and underpaid FDR profits; the money that is unclaimed should earn interest at the Savings Bank rate. Accounts that are inactive need to be routinely audited. On the activation of an inactive account, there shouldn't be any fees.

Requirements for Customer Confidentiality

Banks are not permitted to reveal any account information to third parties unless doing so would be required by law, would be in the public's interest, would be in the bank's best interest, or would be done with the customer's explicit or implicit agreement. The customer's information that is gathered for the purpose of creating an account is to be kept private and no details of it should be disclosed for cross-selling or any other reasons.Customer requests to move his account to another office should be carried out right away by moving the account starting form, specimen signature, standing orders, etc. with the customer's consent.

Coordination with Central Board of Direct Taxes officials

Banks should keep their Income-Tax department more coordinated and provide assistance or coordination to tax authorities as needed.According to Section 25 of the Negotiable Instruments Act of 1881, a "public holiday" is any day that the Central Government has designated a holiday by publication in the Official Gazette, including Sundays and other days. The State Government has been given this authority. by the Central Govt. This means that when the Central Government itself has notified a day as a "public holiday" under Section 25 of the Negotiable Instruments Act, 1881, banks do not need to wait for the State Government notification. Subject to the condition that the Central Government may itself exercise the said function, should it deem it appropriate to do so.

Miscellaneous

By appropriately adapting the holidays, banks in mostly residential regions may maintain business hours on Sundays, while banks in rural areas should maintain business hours on the day of the weekly market. Banks are obligated to accept standing instructions for payments in Savings and Current Accounts. These instructions may be expanded to include payments for taxes, bills, rent, tuition, and other expenses. Branch Manager could be allowed to provide clients with positive transactions a clean overdraft for a little sum. In order to monitor the progress made by the bank in putting the recommendations of various working groups/committees on customer service into practice, banks may examine the recommendations that are pertinent to modern banking and continue to put them into practice. This includes paying interest on deposits and charging interest on advances. Banks should adhere to the Code of Bank's Commitment to Customers, whose implementation is overseen by the Banking Codes and Standards Board of India, among other things.

CONCLUSION

In conclusion, maintaining customer satisfaction and creating lasting connections with consumers depend on the seamless and effective management of bank accounts. In order to resolve consumer concerns and preserve confidence in the banking industry, timely and efficient complaint handling is equally important. Banks may increase consumer trust, develop loyalty, and reinforce their position in the competitive financial market by putting a priority on customer-centric methods, adopting effective complaint redressal processes, and following regulatory rules. Additionally, regulatory agencies are essential in regulating

deposit account activities and handling customer complaints. Banking regulators provide standards and procedures for banks to address consumer complaints and assure compliance with relevant laws, such as the Reserve Bank of India (RBI) in India.

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CHAPTER 15

EXAMINES THE SIGNIFICANCE OF BANKING RELATED LAWS

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ABSTRACT:

Banking-related laws form a comprehensive legal framework that governs various aspects of the banking industry, encompassing regulations on bank licensing, capital requirements, risk management, customer protection, data privacy, anti-money laundering, and more. This paper examines the significance of banking-related laws in ensuring the stability, integrity, and fairness of the financial system. By analyzing case studies and relevant legal literature, this study sheds light on the complexities and implications of these laws on banks, customers, and the broader economy. The findings provide valuable insights into the critical role of banking-related laws in promoting a well-regulated and transparent banking sector. The laws play a fundamental role in shaping the conduct and operations of banks, safeguarding the interests of customers, and ensuring the overall stability of the financial system. These laws provide a comprehensive legal framework that governs the entire spectrum of banking activities, aiming to strike a balance between the interests of banks, customers, and the economy as a whole.

KEYWORDS:

Bankruptcy, Banking, Cheque, Consumer Protection, Credit,Foreign Exchange.

INTRODUCTION

Revival of Documents

In accordance with the limitations act's regulations, banks are required to possess legitimate legal papers. If the statute of limitations runs out, the bank should make arrangements to get a new set of papers. Such circumstances should be avoided. The statute of limitations may be extended under specific circumstances[1], [2]. There are many ways to prolong a restriction period:

1. Debt acknowledgment:

According to Section 18 of the Limitation Act, the limitation term may be extended by getting a written debt acknowledgement from the borrower with the required revenue stamp before the expiry of the allotted limitation period[3], [4].

2. Part payment:

When the borrower or his properly authorized representative makes a portion of the loan payment before the papers expire. The borrower or his designated agent must sign or write in their own handwriting on the proof of such payments.

3. New set of papers:

A new period of limitation will begin on the day that the new set of documents were executed if the bank receives them before the prior set of documents expires. According to Section 25 of the Indian Contract Act, a time-barred debt may only be resurrected by a new commitment in writing that is signed by the borrower or his authorized representative, either generally or expressly authorized in this regard. A new cause of action will arise and a new limitation

period will be available from the day that a promissory note or new papers are signed for an old or barred debt[5], [6].

Judicial Holiday

If a suit, appeal, or application has a deadline that falls on a day when the court is closed, the suit, appeal, or application may be filed on the next business day after the court reopens[7], [8].

Limitation Period - Steps the bank must take:

1. Banks must save all pertinent loan documentation in a safe location.
2. There should be two authorized parties monitoring the papers.
3. Banks shouldn't let any document to expire due to the Law of Limitations' restrictions.
4. The internal controls and monitoring systems of banks should be highly effective in that document renewals should be completed well in advance.

1891 Bankers' Book Evidence Act

Except for the State of Jammu & Kashmir, the Act applies to all of India. 'Bank' and 'banker' refer to any business engaged in the banking industry, including any partnership or person to whose books this Act's provisions are applicable, as well as any money order or post office saving bank. ‘All ledgers, daybooks, cashbooks, and other records used in a bank's routine operations are included in bankers' books. The records may be kept in any format, including textual form, printed computer printouts, microfilm, magnetic tape, or any other kind of mechanical or electronic data. Such records may be kept on-site or off-site, including backup or disaster recovery locations[9], [10].

'Court' refers to the individual or individuals in front of whom a legal action is conducted, while 'judge' designates a judge of a High Court. The term "legal proceeding" covers a range of inquiries, trials, and investigations. Any investigation or action under the Code of Criminal Procedure, 1973, or under any other legislation that is relevant for the collecting of evidence, done by a police officer, is referred to as a "legal proceeding.

Important features of the 1891 Bankers' Book Evidence Act

1. If the records are kept in written form, a copy of each entry along with a certificate certifying that it is a true copy of the entry or entries is required. The extract must be taken from one of the bank's regular books and must show that the entry was made in the normal course of business. If the copy was made using a mechanical or other process, a certificate attesting to the copy's authenticity is also required. Please be aware that the chief accountant or bank manager must sign each of the aforementioned certificates with his name, official title, and the date.
2. If the records are kept electronically, a copy of the printout and a certificate are required, just as they are for manual records.
3. If the records are kept in mechanical form, each printout of an entry in a bank's books that is kept in mechanical or electronic form must include a certificate that addresses all of the issues raised for manual records. Additionally, if the bank's books are not written by hand, then copies in the form of computer printouts must be accompanied by a certificate from the manager or principal accountant confirming that the copy is a printout of the relevant entry. In addition to the previously mentioned certificate, another one should be provided by a person in charge of computers. This certificate should include a brief description of the computer system as well as additional information, such as security measures taken by the bank to protect the integrity of the

data, measures to prevent unauthorized access to the system, checks and balances to ensure that input and output are authentic, information about the control system, and details regarding microfilm and SIM use. In order to ensure the integrity, correctness, and security of the computer system and the data/records, the certificate should be signed by the person in control of the computer system. In all legal processes, a certificate of any entry in a banker's book shall be accepted as prima facie proof of the presence of such entry and admissible as if the original is presented. No more proof is needed when a certified copy is produced. A court may require the examination of financial records.

DISCUSSION

Tax Laws Applicable in Banking Operations

Companies, banks, and financial institutions must make sure that all relevant requirements of the numerous tax laws are met in order to withhold and pay taxes such as income tax, professional tax, service tax, etc. Banks must abide by the appropriate tax laws since they are both an employer and a recipient of various services. Banks are required to pay tax on the interest paid to clients in accordance with government guidelines, such as TDS on interest payable on fixed deposits, NRO deposits, etc., in addition to their roles as employers and recipients of services. In addition to the aforementioned, income from bank investments and transactions involving securities are subject to TDS regulations.

In light of the aforementioned, banks should make sure that taxes are accurately calculated and recovered. Deducted taxes are always paid to the appropriate authorities by the deadline. This is a vital compliance obligation, and banks risk punishment and action if they fail to comply or provide inaccurate calculations or information. Additionally, banks must maintain accurate records of tax collection and payment. In addition to the aforementioned, banks must notify the authorities of the information within a certain time range. In addition to quarterly reporting, half-yearly and/or annual statements must also be submitted as part of the reporting obligation. Banks should prepare to give the relevant certifications for TDS on Form 16 to workers and deduct any applicable tax at source when paying salaries to employees. The service providers should provide TDS on form 16A to cover additional deductions, such as payments made to contractors and other parties. These TDS would be used as proof of tax withheld at source, providing the necessary documentation for workers, service providers, and professionals to request tax refunds.

Act of 1993 Recovering Debts Owed to Banks and Financial Institutions

Due to the enormous backlog of cases and the time needed, recovering loan payments from borrowers via the legal system was a significant problem for the banks and financial organizations. The Act went into effect on June 24th, 1993.

Important DRT Act of 1993 highlights include:

1. For quick recovery, this Act established special "Debt Recovery Tribunals."
2. This Act applies to recoveries of debt exceeding 'Ten lakhs' owed to any bank, financial institution, or group of them.
3. All of India is covered by this Act, with the exception of the State of Jammu & Kashmir.
4. The following debts of banks and financial institutions are included under the definition of "debt:" any liability, including interest, whether secured or unsecured; any liability payable under a judgment or order of a civil court; any arbitration award;

or any other type of liability; or any liability payable under a mortgage that is in existence and is legally recoverable as of the application date.

Debt Collection Tribunals

The Central Government has created debt recovery tribunals. The jurisdiction is determined by the central government, which also names one member as presiding officer, who must be at least a district judge.

Other significant characteristics of DRT:

The Civil Courts are prohibited from taking any cases where DRT has jurisdiction in such situations. The scheduled day, which is specified in notice, is when the Tribunal and Appellate Tribunal begin to conduct business. Their responsibilities, authority, and purview are clearly stated. No court or other authority shall have any jurisdiction, powers, or authority to deal with in any form in recovery matters beyond Rupees ten lakh as of the day the Tribunal was established, i.e., the specified day. Articles 226 and 227 of the Constitution, however, provide the High Courts and Supreme Courts power.

Procedure for Recovery

The bank must submit a request for loan recovery while taking the jurisdiction and cause of action into account. Additionally, another bank or financial institution may apply jointly. Applications may be submitted with fees, supporting materials, and proof. The Limitation Act also applies to DRT proceedings; therefore, the bank or other financial institution must submit the application within the allotted time from the cause of action. If the defendant who was the subject of the DRT's recovery order decides to appeal to the Appellate Tribunal, he must first deposit either 75% or the prescribed percentage of the sum as determined by the Tribunal. Such money is required in order to submit an appeal. The tribunal grants the applicant a Recovery Certificate. Under the Act, recovery officials who are a part of the tribunal are given sufficient authority. The recovery officer must go on with the attachment and sale of both moveable and immovable property after obtaining the recovery certificate. Defendant is not permitted to contest the accuracy of the sum stated in the recovery certificate. Orders of the recovery officer are relevant to the Tribunal within thirty days.

Special DRT characteristics

When there is a conflict with another law or in an instrument because of another law that is now in effect, this Act's provisions take precedence.

Legal Cases

A specific Act called DRT is used to collect debt owed to banks and other financial organizations. The requirements of the Companies Act of 1956 are superseded by DRT, therefore permission from the company court is not necessary even if the firm is through wind-up procedures. Priority of secured creditors is governed by the requirements of Section 529 A of the Companies Act in instances were winding up proceedings are continuing in company court and money realized under the DRT Act is distributed amongst banks and other secured creditors.

Under the Legal Services Authorities Act of 1987, Lok Adalats are arranged. They are made to achieve a compromise or agreement over any disagreement or possible conflict. When both parties agree that Lok Adalats is the best place to resolve their differences or when the court is convinced as to this, Lok Adalats is given jurisdiction. Justice, equality, fair play, and other legal norms need to serve as its guiding principles. The Award should be legally binding on

the disputing parties in the event of a settlement. There should be no room for an appeal of the Award in any court. The current limit on the number of cases that may be handled by Lok Adalats, which are civil courts organized to facilitate a settlement between conflicting parties in situations pending before any court, is 20 lakhs. The SARFAESI ACT was passed with the intention of regulating the securitization and reconstruction of financial assets, the enforcement of security interests, and any issues related to or incidental to such activities.

Important Aspects of the SARFAESI Act.

1. Popularly known as the Securitization Act
2. This Act gives banks and financial organizations the authority to collect unpaid debts in accounts for non-performing assets without seeking a judge's involvement.
3. This Act also gives banks and financial organizations the authority to send notices of collection to defaulting guarantors and borrowers, requesting that they pay the debt in full within 60 days.
4. If the borrower and/or guarantor ignores the bank's or financial institution's 60-day notice to repay the full amount owed, the bank or financial institution may: Take possession of or control over the borrower's secured assets; also, it may transfer those assets via lease, assignment, or sale in order to realize the secured assets without the need for court or DRT intervention. appoint someone to oversee the secured assets that the secured creditor has seized control of. Additionally, direct anybody who is in possession of the borrower's secured property to pay the secured creditor any money that is owed to the borrower or that becomes due at any time.

Several key phrases covered under the SARFAESI Act

Bank

The State Bank of India and its subsidiary banks, all banking organizations, nationalized banks, regional rural banks, cooperative banks, etc.Anyone who has received financial assistance from a bank or other financial institution, provided a guarantee, or created a mortgage or pledge as collateral for that financial assistance, as well as anyone who becomes a borrower of a securitization company or reconstruction company because the company has acquired any right or interest from a bank or other financial institution as a result of financing, is referred to as a borrower.

National Registry

the register office established by the central government to serve as a means of recording all asset securitization, reconstruction, and establishment of security interest transactions. The registration process will work on a "first come, first served" basis, meaning that the first individual to register will have preference over those who register later.

Financial support

Financial help refers to every time a bank or other financial institution permits a borrower to get a loan or advance, subscribe for debentures or bonds, issue letters of credit, or grant any other credit facility.

Act addresses

Any money owed, the ability to pursue a security interest result from a borrower default, and the creditor is a secured creditor. In other words, this Act does not provide any rights to unsecured creditors. The bank must designate the debt as a non-performing asset.

Financial Resource

Any debt or receivable secured by a mortgage of or charge against immovable property, or a claim to any debt or receivables, in whole or in part, whether secured or unsecured, or any charges similar to a mortgage, hypothecation, or pledge of moveable property, or any right or interest in the security, whether full or in part, securing debt, or any beneficial interest in any movable or immovable property, or in debt, receivables,

Only non-performing assets of a borrower that have been determined by a bank or financial institution to be substandard, questionable, or loss assets in accordance with RBI rules are subject to the Act. According to this Act, a charge made against any moveable property by a borrower in favor of a secured creditor is referred to as a "hypothecation." Reconstruction company is a business entity established for the purpose of reassembling assets and registered under the Companies Act of 1956. The Act addresses three crucial issues: securitization, financial asset reconstruction, and enforcement of security interests.

Securitization

The process of securitization is the purchase of a financial asset from the lender by the securitization or reconstruction company. The reconstruction or securitization company may raise money from qualified institutional buyers for the purchase of a financial asset by issuing security receipts representing an undivided interest in the financial assets or in another manner.

Receiving Security

any receipt or other security given to a qualified institutional buyer by a reconstruction or securitization business. The security receipt serves as proof of the holder's acquisition of an undivided right, title, or interest in the financial asset that is the subject of the securitization. The market allows for the transfer of security receipts. The SARFAESI Act makes it possible to transfer loans with mortgage or other security interests.

Reconstruction of Assets

The job of an asset reconstruction firm is to assume bank or financial institution debts or advances for the goal of recovery. In other words, asset reconstruction refers to the process by which any securitization company or reconstruction business acquires any right or interest of any bank or financial institution in any financial assistance for the goal of realizing such financial assistance. When a financial asset is acquired, the securitization or reconstruction business assumes ownership of the asset and replaces the lending bank or financial institution.

This purchase might also be considered a sale of an asset done without going via a bank or other financial institution. The Reserve Bank of India is the regulating body for all enterprises engaged in securitization or rebuilding. It is a company incorporated under the Companies Act of 1956 for securitization purposes, and it also has to be registered with the RBI in accordance with the SARFAESI Act.

Recovery of the bank's bad loans depends on the "Enforcement of security interest." The unique aspect of the Act is that, under certain conditions, the security interest may be enforced without the involvement of the courts. For example, the bank must provide the borrower 60 days' notice along with a request to discharge the loan debt. If the borrower doesn't pay the debt, the secured creditor may seize the secured asset or take further legal action in accordance with the Act's requirements.

Interest in Security

A security interest is any right, title, or interest in any sort of property that is created in the favor of a secured creditor. Any secured creditor is included in what is referred to as a security interest. Every time a lender accepts a borrower's security, that lender receives interest on that security. Several measures must be followed while taking control of the asset, and the Chief Metropolitan Magistrate or District Magistrate might be contacted for assistance if necessary.

Special attributes

Certain conditions prohibit the attachment of property, such as any security interest ensuring the return of financial aid up to Rs. 1 lakh. Unregistered security interest under this Act. every land-based security interest that is developed. Movables pledged in accordance with Section 172 of the Indian Contract Act.

National Registry

The establishment of security interests and the registration of securitization and reconstruction transactions are done via the central register. Registration under other Acts, such as the Registration Act, the 1908 Companies Act, the 1986 Patents Act, the 1970 Motor Vehicles Act, and the 1988 Registration Act. In addition to the individual registrations needed under the aforementioned statutes and/or any other Act, the SARFAESI Act also requires a registration.

The SARFAESI Act mandates registration for the following items:

1. Financial asset securitization
2. Rebuilding financial assets
3. The development of security interests

The central registrar must receive the information of any securitization, reconstruction, or establishment of security interests. The central register record may be held entirely or partially electronically. The securitization company, the reconstruction business, or the secured creditor must submit the information in the appropriate form thirty days from the date of the transaction or the establishment of the security. The required payments must be paid in order to register. After the first thirty days specified, the central registrar may excuse the delay, if any, for the next thirty days, provided the necessary costs are paid. The securitization business, the reconstruction company, or the secured creditor must also submit the revision before the central registrar in the event that information recorded with the central registrar has to be changed. Similar to the registration process, the update must be submitted within 30 days using the required documents and paying the prescribed costs. After the first thirty days specified, the central registrar may excuse the delay, if any, for a further thirty days, provided the necessary costs are paid.

On the complete payment by the borrower, the security interest recorded with the central registrar must be met. After receiving complete payment or satisfaction of the charge, the securitization company, reconstruction company, or secured creditor, as applicable, must disclose the satisfaction within thirty days. The central registrar is required to issue a notice to the securitization company, the reconstruction company, or the secured creditor upon receipt of the satisfaction charge, asking them to provide justification within fourteen days as to why the payment or satisfaction should not be recorded as intimated. The central registrar must direct that the memorandum of satisfaction be included in the central register if the necessary

reason is not present. If there is a reason, it should be noted in the central register, and the borrower should be informed.

CONCLUSION

In conclusion, A well-regulated, stable, and customer-focused banking industry must be ensured by banking-related regulations. These regulations provide banks a solid framework on which to act morally, manage risks sensibly, and safeguard the interests of their clients. Banks may promote trust, confidence, and resilience in the financial system and support sustainable economic growth and development by abiding by the law and adopting a customer-centric strategy. Laws governing cybersecurity and data privacy are also becoming more and more important in the digital age. Data privacy and protection of consumer information have grown crucial as banks increasingly depend on technology for their operations. In addition to protecting client information, compliance with data protection rules also increases customers' confidence in the security of digital banking services.

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CHAPTER 16

POSSESSION OF PROPERTY MORTGAGED AND HYPOTHECATED TO BANKS

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ABSTRACT:

The possession of property mortgaged and hypothecated to banks is a critical aspect of the lending process in the banking sector. This paper examines the legal implications and procedures involved when a borrower defaults on loan payments, leading to the bank exercising its right to take possession of the mortgaged or hypothecated property. By analyzing case law and relevant legal literature, this study sheds light on the significance of possessing such properties, the rights and obligations of banks and borrowers, and the measures to ensure a fair and transparent possession process. The findings provide valuable insights into the complexities and challenges of property possession by banks and its impact on both parties involved.It is a legal right granted to banks to recover their dues and protect their financial interests. Possession of property involves a well-defined legal process, and adherence to this process is crucial to ensure fairness and transparency in the possession proceedings.

KEYWORDS:

Hypothecation, Lien, Mortgage, Possession, Property Rights, Realization of Security.

INTRODUCTION

In a recent instance, the Supreme Court noted that the nation is governed by the rule of law and that only lawful procedures might be used to collect debts or seize automobiles. In this regard, it should be noted that the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and the corresponding Security Interest Rules, 2002, have established clear guidelines for both the enforcement of security interests as well as the subsequent auctioning of both movable and immovable property. Therefore, it is preferable that banks solely depend on legal remedies provided by the applicable legislation, which enable banks to enforce the security interest without court involvement[1], [2].

When banks include a re-possession clause in a contract with a borrower and rely on it to enforce their rights, they should make sure that it is legally binding, that the borrower was made aware of it when the contract was executed, and that the contract contains terms and conditions regarding the notice period to be given to customers before taking possession of the procedure that the bank would follow. By doing this, it should be possible to make sure that the bank is adequately managing its legal and reputational concerns and that there is enough upfront disclosure[3], [4].

Act on Lenders' Liability

The SARFAESI Act was passed in India in 2002. The Reserve Bank of India had developed a set of standards of conduct known as "the Fair Practice Code for Lenders" and had recommended banks to implement the principles based on the suggestions of the working group on lenders' liability laws that the Government of India had established. According to the standards, each bank created its own set of Fair Practice Codes, which were put into effect on November 1st, 2003.

The following are some of the Lenders Liability Act's key characteristics:

All loan applications should be acknowledged by banks and other financial institutions. Within a fair amount of time, the loan applications should be thoroughly examined. Complete loan applications are required for loans up to Rs. 2 lakhs in the priority sector.After determining the applicants' creditworthiness, lenders should make sure that the credit proposal is correctly evaluated. Margin and security requirements should not be used as a stand-in for investigating credit worthiness and other terms and conditions. The lender is required to provide the borrower written notice of the approval of the credit limit, together with any applicable terms and restrictions, and to preserve a record of the borrower's acceptance of the credit limits and terms and conditions[5], [6].

The acceptance letter must be properly signed and included as collateral security. If a consortium advances, the participating lenders should establish mechanisms to evaluate proposals as quickly as is practical and to notify their decision about funding or not within a fair amount of time. Loans that have been approved in accordance with the terms and circumstances regulating such approval should be disbursed promptly by lenders[7], [8]. Lenders should release all securities upon receiving payment of the loan or realizing the loan, subject to any legal right of lien for any other claim lenders may have against the borrowers. Post-disbursement supervision by lenders, particularly in respect of loans up to '2 lakhs, should be constructive with a view to taking care of any 'lender-related; genuine difficulty that the borrower may face. Except as permitted by the terms and circumstances of the loan sanction agreements, lenders shall not meddle in the borrowers' affairs. Lenders shouldn't use excessive harassment while trying to collect loans.In addition to the Fair Practices Code, banks should have a robust framework for handling grievances. The Bankers' Fair Practices Code, Fair Practices Code for Credit Card Operations, Model Code for Collection of Dues and Repossession of Security, and other codes have been established by banks in addition to the one mentioned above[9], [10].

Banking Advocate

The Banking Ombudsman Service is a method for handling complaints. For complaints about service deficiencies at banks, this service is offered. A bank client may file a complaint on a service issue with the bank's branch or bank, as appropriate. If the bank does not respond to the customer's complaint in a suitable manner, the customer may then contact the Banking Ombudsman for further action. Under the 2006 Banking Ombudsman Scheme, the RBI appoints the Banking Ombudsman. With effect from 1995, the Banking Ombudsman Scheme was established by the RBI according to Section 35A of the 1949 Banking Regulation Act.

Key characteristics of the Banking Ombudsman

The Reserve Bank of India established the Banking Ombudsman, a senior officer, to address consumer complaints about inadequate banking services. The Scheme covers all Scheduled Commercial Banks, Scheduled Regional Rural Banks, and Scheduled Primary Co-operative Banks. The Banking Ombudsman Scheme covers a number of deficiencies in banking services, including online banking, including: deficiency in customer service like non-acceptance, without sufficient cause, of small denomination notes tendered for any purpose, and for charging of commission in respect thereof; delayed or non- payment of inward remittance, delay in issuance of drafts, non-adherence to prescribed working hours; refusal to open deposit accounts without any valid reason for refusal; levying of charges without adequate prior notice to the customer; forced closure of deposit accounts without due notice or without sufficient reason; refusal to close or delay in closing the accounts; etc., non-adherence to the fair practices code as adopted by the bank or non-adherence to the

provisions of the Code of Bank's Commitments to Customers issued by Banking Codes and Standards Board of India and as adopted by the bank ; non-observance of Reserve Bank guidelines on engagement of recovery agents by banks; and any other matter relating to the violation of the directives issued by the Reserve Bank in relation to banking or other services. Customers who experience poor service with relation to loans and advances may also file a complaint on the following grounds:- Failure to follow Reserve Bank Directives on interest rates; delays in sanction, disbursement, or failure to adhere to the time frame prescribed for handling loan applications; refusal to accept a loan application without providing the applicant with sufficient justification; and failure to follow the guidelines of the bank's Fair Practices Code for Lenders or Code of Bank's Commitment to Customers, as applicable.

If the bank does not respond within a month after receiving a representation from the complainant, if the bank rejects the complaint, or if the complainant is dissatisfied with the bank's response, the complainant may submit a complaint with the Banking Ombudsman. However, the following circumstances will prevent the Ombudsman from considering a complaint: The individual has not initially sought remedies from his bank for his complaint The complaint's issue is either now being adjudicated or has previously been resolved in another place, such as a legal or consumer court. The program does not cover the institution that has been criticised.

The complaint's topic falls outside of the Banking Ombudsman's purview.Simply writing on a piece of plain paper is all that is required to submit a complaint to the Banking Ombudsman. It may also be submitted online or by emailing the Banking Ombudsman. You may make a complaint with the Banking Ombudsman whose geographical jurisdiction includes the customer's billing address for issues with credit cards and other services with centralized operations.

The amount that the bank would, if at all, pay the complaint as compensation for any losses sustained by the complainant is capped at the amount that results directly from the bank's conduct or omission, or at $10,000, whichever is lower. Only when complaints about credit card operations result in mental anguish and harassment, the Banking Ombudsman may provide the complainant compensation up to $1 lakh. When making this decision, the Banking Ombudsman will take into consideration the complainant's lost time, expenditures spent by the complaint, harassment, and mental distress.

If it appears to him that a complaint made to him is: not on the grounds of complaint referred to above compensation sought from the Banking Ombudsman is greater than '10 lakh in the opinion of the Banking Ombudsman there is no loss, damage, or inconvenience caused to the complainant, the Banking Ombudsman may reject the complaint at any stage. If someone is unhappy with the decision, they have 30 days from the day they received the award to file an appeal with the appellate body.

The appellate authority may also provide an additional term of no more than 30 days if they are convinced that the applicant has good grounds for not filing an appeal in a timely manner.

DISCUSSION

Consumer Protection Act, 1986

The Consumer Protection Act was designed to safeguard consumer interests. Except for the State of Jammu & Kashmir, the Act applies to the whole of India. All products and services are covered under the Act, with the exception of items for resale or other commercial purposes, services provided without charge, and contracts for personal services.

Complaints

A consumer, a voluntary consumer association registered under the Companies Act of 1956 or any other law, the Central or State Government, one or more consumers with the same interest, or in the event of a consumer's death, that consumer's legal heirs or representative, may all file a complaint.

The Act promotes prompt resolution of consumer complaints. Consumer councils are created to advance and defend consumers' rights. The State Council is responsible for each state, the District Council is responsible for each district, and the Central Council is responsible for the whole nation. The Minister-in-Charge of Consumer Affairs in the State Government serves as the chairman of the councils at the state level. The District Forum, State Commission, and National Commission all handle consumer complaints. State governments create the District Forum and State Commission, while the federal government creates the National Commission. District Forum has the authority to handle issues costing up to 20 lakhs. The State Commission handles complaints with a value more than '20 lakh' and 'one crore, and it also hears appeals against any District forum's decisions made inside the State. The Central Commission would deal with cases totaling more than $1 billion. They also handle appeals against any State Commission order. Complaints should be filed in the appropriate format, with all required information, supporting documentation, and the appropriate filing fee. A witnessing affidavit is necessary. Decisions on the complaint's admissibility must be made in twenty-one days. The Act's other already in effect processes and requirements would also apply.

Advances And Loans

Guidelines For Lending

Banks' primary line of business, lending, has certain inherent risks, and if a bank wishes to lend, it cannot assume more than a calculated risk. Consequently, lending activity must unavoidably abide by specific norms. It is easy to separate lending principles into the categories of activity and person.

Security Assessment

'MASTDAY'M - Marketability A- Easy to determine its title, value, quantity, and quality should be the primary and collateral security.

With certain adjustments, the conventional guidelines for bank lending have been followed. In relation to specific forms of loans, the idea of security has undergone a significant transformation, and profitability has been placed below social purpose. Now, let's get into further depth about the lending principles:

Safety

The bank's primary responsibility in lending is to guarantee the security of the money it has been entrusted with by depositors. Safety refers to the borrower's ability to return the loan, plus interest, in accordance with the conditions of the loan contract. The ability and willingness of the borrower to repay the loan determines how it will be repaid. The former relies on the business's performance and the value of the borrower's physical assets; if he is successful in his endeavors, he will generate profits and be able to return the loan on time. If not, the profits from the sale of his physical assets are used to pay back the loan. The borrower's integrity and moral character determine whether they are willing to make payments. In order to ensure that the firm or business for which a loan is requested is a solid

one and the borrower is capable of carrying it out effectively, the lender should take the greatest care. He needs to be a trustworthy individual with a solid reputation. In addition to the aforementioned, the lender often relies on the security of real property possessed by the borrower to protect his money.

Liquidity

In essence, banks act as middlemen for short-term financing. As a result, they mostly lend money for working capital needs over short time periods. Therefore, the loans are mostly repayable on demand. The lender must make sure the borrower can pay back the loan quickly or on demand. The kind of assets that the borrower owns and pledges to the banking will determine this. In contrast to permanent assets like land and buildings, as well as specialized kinds of plant and equipment, which may be liquidated over time, products and commodities, for instance, are simply marked for sale. As a result, the banker prioritizes liquidity above the security of the money and makes loans secured by readily tradable assets.

Profitability

The nationalized banks are profit-making entities, just as commercial banks are. They must use their money profitably in order to generate enough revenue to cover employee wages, interest payments to depositors, other institution costs, and dividend payments to shareholders. In the past, the Reserve Bank's instructions had a major impact on the interest rates that banks charged. Banks are now allowed to set their own advance interest rates. The degree of risk associated with lending to them determines how differently various customers charge interest rates. A consumer with a good reputation pays a lower interest rate than a regular customer. Not sacrificing safety or liquidity for greater profitability is a solid lending philosophy. That is to say, even if the borrower is willing to pay a very high interest rate, banks shouldn't issue loans to unsound parties with questionable repayment capabilities. Such advances eventually turn out to be unrecoverable, which is against the bank's and its depositors' best interests.

Object of the Loan

The lender asks the borrower what he plans to use the money for before giving it to him. Banks don't provide loans for every possible reason; instead, they only give loans for productive ones, i.e., to businesses for their working capital requirements, in order to protect the security and liquidity of their money. Loans are not given out for speculative or useless reasons such social gatherings and ceremonies, vacations, or the payback of a former loan. Long-term loans are given out by banks as well as loans for capital expenses related to starting a company. Following the nationalization of the largest banks, the banks now provide loans for the early costs associated with launching new enterprises, industries, and other ventures.

Principle of Risk Diversification

This is a fundamental tenet of responsible lending. A responsible banker will always make an effort to carefully choose the borrower and will use actual assets as security to protect his interests. Although tangible assets are unquestionably valuable and the banker feels secure when providing advances on their security, there is always some risk involved. A sector of the economy or a trade might be experiencing a downturn in prices for products and commodities. Even a successful company may be destroyed by natural disasters like floods and earthquakes as well as political unrest in particular regions of the nation. To protect his interest from such unforeseen contingencies, the banker adheres to the principle of risk

diversification, which is based on the adage "don't put all your eggs in one basket." This means that the banker shouldn't restrict his lending to a small number of large companies, industries, cities, or geographic areas. On the other hand, the advances should be divided among a large number of consumers from a variety of crafts and sectors across a somewhat broad region. Thus, the banker spreads out the lending-related risk. The status of the bank generally won't be in peril if a significant client has bad luck or if several businesses or sectors suffer.

National Policy and Goals, Bank Credit

Among an economy's governing peaks are the banking institutions. They must support the goals and policies of the country. Twenty major banks in India were nationalized "to better serve the needs of development of the economy in conformity with the national policy and objectives." Urgent changes in banking policies and practices were then required to serve broader social goals of the country's established democratic socialism.

Over the last two decades, bankers have seen significant shifts in the idea of security in their approach to the formerly weaker and ignored members of society. Large-scale financing for farmers, small business owners, professionals, and transporters has been mandated for banks. Additionally, banks have been urged to assist in the 20-Point Programmer's execution and have been instructed to make sure that bank advances in key sectors are progressively supplied to the weaker and less fortunate at a reduced rate of interest. The borrower's technical proficiency, management skills, honesty, and integrity are also taken into consideration while looking for security for the money that was borrowed in addition to his actual assets. Numerous loans are being provided for the launch of small firms and the beginning of professional careers. It is necessary to keep in mind that bank loans must serve as a crucial tool for accomplishing larger societal goals, national policies, and objectives. The fundamentals of good lending, however, remain essential and are followed even by nationalized institutions. Of course, the fundamental guidelines may be used in different ways depending on the circumstances.

According to Section 8 of the Banking Companies Act, 1970, Public Sector Banks must also follow any guidelines the Central Government issues with respect to policy considerations of public interest while performing their duties. The social purpose that they must support is highlighted in a number of directives that the Central Government and Reserve Bank have made in this area.The business of authorizing unsecured loans is considerably more dangerous, requiring the banker's careful care and consideration. Without a charge over a particular item, the borrower's honesty and integrity are just as important to the safety of the advance as the value of his actual assets. Therefore, the lender must conduct enough inquiries into the borrower's desire as well as ability to settle the debt. Even while this kind of investigation is required in secured advance cases as well, it is more urgent in unsecured advance cases for obvious reasons.A person's creditworthiness indicates how much credit he deserves and how much may be securely extended to him. The lender evaluates this creditworthiness based on the borrower's capability, capacity, and capital.

1. Character:

The first factor taken into account when determining a person's creditworthiness is that person's character. A person's honesty, integrity, regularity and promptness in keeping his word and paying his debts, sense of responsibility, good habits, and the reputation and goodwill that he enjoys in the eyes of others are just a few examples of the many personal qualities that the word "character" implies and encompasses. A person has a good reputation

and will be regarded as creditworthy by the banker if they exhibit all of these traits without raising any questions or suspicions in the eyes of others.

2. Capacity:

The entrepreneur's skill, knowledge, and experience play a major role in the success of a business. The success of such a unit may be assumed for granted and the lender will consider him a meritorious case for issuing an advance if the borrower has the essential technical expertise, management skills, and experience to operate a certain business or trade. The importance of this aspect is now increasing since banks are prepared to provide unsecured loans to professionals and qualified individuals regardless of their own money based on the viability of their business proposals.

3. Capital:

The priority given by the lender to the borrower's adequate capital is not without consequence. Banks hold public funds in trust and disburse borrowed funds. As a result, the lender will not give money to an entrepreneur who has sufficient personal resources. If the borrower has enough cash on hand, the lender will be able to get his money back in the event that the firm fails.

Although each of the aforementioned elements is significant and is taken into consideration by the banker when determining the borrower's creditworthiness, their relative weight varies from bank to bank and from borrower to borrower. Security considerations are currently changing. The borrower's skill and expertise as well as the viability of his proposal are being emphasized more. However, unsecured advances are not given to those with questionable integrity or good reputation. Creditworthiness is also a relative concept. Based on the aforementioned, a person may only be deemed creditworthy for a particular amount and not more.

Credit Information Collection

A lender must gather the aforementioned data from many sources in order to evaluate a borrower's creditworthiness. Specialized organizations gather data on businessmen's position and financial standing in other nations and provide it to lenders. Examples of such credit agencies are Seyd and Company in England and Dun & Bradstreet in the United States. The job of a banker becomes challenging in India without such specialist credit agencies. To gather data on the financial standing of its borrowers, each bank has a Credit Investigation Department at its head office and primary offices in bigger towns. Branch managers handle credit investigations at other centers. The following sources are used to get credit information:

1. Under Section 45-C of the Reserve Bank of India Act, 1934, the Reserve Bank of India created a Credit Information Bureau inside its own organization that gathers credit information from banks. In relation to credit limitations of '5 lakh and above for secured loans and '1 lakh and more for unsecured advances, banks are obligated to provide such credit information. In addition to the outstanding amount, they highlight the facility's type, security, and fees. The Reserve Bank provides to the applicant-banks information on the total limits sanctioned to and the number of banks working with a party after combining such information with respect to each client. As a result, the banks are able to determine if any of its clients are making excessive borrowings from the financial system at any one moment. Only large clients and specifically those related to the final Fridays of March, June,

September, and December each year may have such information safeguarded. As a result, the Bureau can only provide so much help to the banks.

2. Borrower:

The borrower is a great source of information. On the loan application form, the applicant and his company are asked for some basic information. The banker may go over his books of accounts and take note of his previous interactions with other banks or parties. His earlier transactions and business ventures may be seen in his pass books with other institutions. The borrower must be personally interviewed by the lender in order for him to fully understand his situation. According to Bazar, banks ask brokers, dealers, and other businesspeople in the same trade or sector about the creditworthiness of the party. Despite the fact that their individual views may vary, the sentiments stated by a lot of these people may be used to develop a well-rounded impression of the borrower.

Share of credit information among banks:

In the interest of all parties, it is normal and practiced for banks to share credit information pertaining to their constituents. Banks, however, only exchange quick and rudimentary credit reports. They use sweeping but reserved language. institutions are hesitant to provide useful credit information because they fear losing their legal protection if more information is revealed to the querying institutions. Consequently, the Study Group recommended that: there should be an open and honest exchange of credit information among banks and that there should be a qualitative change in the contents of credit reports that should highlight the management practices of the customers and their behavioural pattern with their buyers, sellers, and the bank instead of concentrating exclusively on the bank. Similar to this, the credit reports should include information on the customer's aptitude, business sense, integrity, and desire to honor promises. For the coordinated gathering, collation, storage, and interchange of credit information among the banks, a central organization to be known as "Credit Information Trust," i.e., CREDIT, is founded. The Reserve Bank of India Act, 1974 included a provision that gives banks legal protection for their ability to freely share credit information with one another. The definition of "credit information" has also been expanded to include data about a borrower's resources, background, history of financial transactions, and creditworthiness. Accounts for profit and loss and the balance sheet. His genuine financial situation may be determined by examining the borrower's most recent Balance Sheet and Profit and Loss Account. Competent accountants should certify these declarations.

CONCLUSION

In conclusion, Possession of the real estate that has been hypothecated and mortgaged to banks is a crucial legal part of the loan process. To guarantee a balanced and equitable possession process, proper adherence to legal rules, open communication between banks and borrowers, and a fair approach to recovery are necessary. Banks may preserve borrowers' confidence and goodwill by taking a prudent, customer-focused approach while protecting their financial interests via legal possession procedures. In possession procedures, it's critical to achieve a balance between the interests of banks and debtors. Borrowers have the right to a fair and open procedure in addition to the lawful right of banks to collect unpaid debts. In order to guarantee that both parties' rights are safeguarded during possession procedures, courts and regulatory bodies are essential. In addition, before turning to possession, banks should think about other recovery options. To arrive at solutions that are agreeable to both parties and do not need property ownership, mediation, arbitration, or negotiated settlements might be investigated.

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CHAPTER 17

EXAMINES DIFFERENT TYPES OF CREDIT FACILITIES

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ABSTRACT:

Credit facilities are essential financial tools that provide businesses and individuals with access to funds for various purposes. This paper examines different types of credit facilities offered by financial institutions, including loans, lines of credit, credit cards, overdraft facilities, and trade credit. By analyzing case studies and relevant literature, this study sheds light on the characteristics, advantages, and potential risks associated with each type of credit facility. The findings provide valuable insights into the diverse options available for borrowers and the importance of choosing the right credit facility to meet specific financial needs.Types of credit facilities play a significant role in catering to the diverse financial requirements of businesses and individuals. Each type of credit facility offers unique features and benefits, making them suitable for different situations and objectives.

KEYWORDS:

Cash Credit, Commercial Paper, Credit Cards, Debt Financing, Equipment Leasing, Export-Import Financing.

INTRODUCTION

Banks engage in the lending sector by providing a range of credit options to its clients. In essence, different forms of credit that banks issue are often repayable upon demand. A bank should make sure that the money it has loaned is properly recovered, and it should be familiar with the types of legal options accessible to it as well as the laws that apply to the credit facilities it offers[1], [2].

Credit facilities often fall into the following categories:

Facilities for Fund-Based Credit

Fund-based credit facilities need an outflow of cash, which means that the lender must lend the consumer money[3], [4]. They often come in the following categories:

1. Cash advances and overdrafts
2. Term loans and demand loans
3. Bill financing
4. Facilities for Credit Not Based on Funds

The following types of credit facilities include the banks' money, which are not loaned to the client:

Money Credit

In India, cash credit represents around 70% of all bank credit and is the primary way banks lend money. According to the concept, the banker establishes a ceiling for each client, known as the cash credit limit, up to which the consumer is allowed to borrow using guarantees or physical assets as collateral[5], [6]. Cash credit is a flexible kind of financing that gives the borrower the freedom to take out as much money as he wants, when he needs it. In accordance with this agreement, the banker establishes a loan limit for the client, up to which

the consumer may draw. The borrower's need and the bank's agreement govern the cash credit limit. The borrower may withdraw funds up to the sanctioned limit against the maximum amount of cash credit as needed. The limit of cash credit may be extended by the bank at the end of the year if the account is operating properly. It is typically sanctioned for a term of one year and guaranteed by the security of some physical assets or personal guarantee. Calculated interest is added to the customer's account. One sort of bank lending is cash credit, which is secured by the pledge or hypothecation of commodities[7], [8]. The term "pledge" refers to the bailment of commodities as security for debt repayment. Its main goal is to give the lender ownership of the pledged items. In the event that the borrower fails to return the loaned amount, it assures debt collection. In "Hypothecation," the borrower retains ownership of the items but is obligated under the agreement to transfer ownership to the lender at the banker's request. In situations when transferring possession is difficult or impossible, hypothecation is a tool to establish a charge over the asset[9], [10].

The following are some characteristics of cash credit agreements: The lender determines the cash credit limit after considering a number of operational aspects of the borrower's business, including production, sales, inventory levels, previous use of such limitations, etc. Thus, the banks have a tendency to link the restrictions to the security provided by their clients. Although there is no set due date for repayment of the amounts authorized under the cash credit agreement, in fact they 'roll over' for a while.

Cash accruals from sales are sometimes modified in a cash credit account, however it is discovered that on a greater number of accounts, no credit balance appears or the debit balance is completely wiped out over years since withdrawals exceed revenues. In a cash credit agreement, a banker maintains sufficient cash holdings to fulfill client demand as it emerges. However, the consumer only pays interest on the amount that he really used. A commitment fee on the unused credit limits may be imposed by the banks in order to offset the loss of interest on the idle cash they have inside the authorized credit limits. Banks have been instructed by the Reserve Bank to develop their own policies to guarantee credit discipline and impose a commitment fee. As a result, the commitment fee is subject to the individual banks' discretion.

Benefits of the Cash Credit System

1. Flexibility

The borrowers don't need to hoard their extra cash; instead, they can recycle it effectively, reduce interest payments, and ensure lower borrowing costs for themselves and higher cash flow for the banks by depositing all cash accruals in a bank account.

2. Convenience in Operations

Banks must have a single account for all transactions made by a client. It is possible to avoid the repetitious paperwork.

Problem with System

The credit limitations are fixed annually, while the cash restrictions are not. As a result, it encourages the habit of setting higher boundaries than necessary throughout the majority of the year. In periods of credit constraint, the unfilled gap mystifies the borrowers.

Bank's Incapacity to Confirm the final use of Funds

In this arrangement, emphasis is placed on security. Consequently, banks make no deliberate attempt to confirm the final use of money. Lack of adequate management of funds: Under this

system, the number of advances in a bank is controlled not by how much the banker can lend at a given moment, but rather by the borrower's desire to borrow at that time.Funds are diverted, without the banker's knowledge, to unapproved uses. As a result, the system does not support banks' efficient money management.Several committees formed in India for this reason have revealed the flaws in the cash credit system. On the basis of the Tandon Committee and Chore Committee's recommendations, the Reserve Bank has released guidelines for revamping the cash credit system.

Overdrafts

A facility known as an overdraft facility is provided by the bank to a client who maintains a current account and allows them to draw more money than the account's credit amount. Additionally, consumers may request and use temporary overdrafts as needed. Regular overdraft limits are prohibited, nonetheless, when used with certain assets. Important characteristics of this sort of account are listed below. Overdraft accounts are subject to the same regulations that apply to current accounts. Since an overdraft is a running account, debits and credits are unrestricted. Daily product-based interest is applied, and monthly account debits are made. When a temporary overdraft occurs, interest should be charged as soon as it is corrected, or at the end of the month, whichever comes first. Overdrafts are often given out on an unsecured basis as well as against the security of government securities, shares and debentures, National Savings Certificates, LIC policies, and bank own deposits, etc.

An overdraft is what happens when a banker allows a current account holder to withdraw more money than is now in his credit. The lender may need some kind of collateral security or may provide an advance based on the borrower's own personal security. The consumer is free to take out the money as needed and to put the money back into his account whenever it is practical for him to do so. Interest is assessed on the precise amount of the customer's overdraft as well as for the time that it was actually used. Typically, a bank would provide an overdraft facility in exchange for a written request and a promissory note that the client has signed. In certain circumstances, an explicit contract is created. In certain circumstances, even in the lack of a written agreement to give an overdraft, such an understanding may be deduced from business practice. For instance, if an account holder overdraws on his account even without receiving an explicit permission of an overdraft facility and the bank dutifully honors his check, the transaction counts as a loan. The High Court found that an implicit agreement for the granting of an overdraft or loan facility existed in the case of Bank of Maharashtra vs. M/s. United Construction Co. and Others. The terms and conditions of the facility, including the rate of interest that will be charged with regard to the overdraft facility, should thus be included in a letter and a promissory note that the banks get. Even if the overdraft facility is just temporary in nature, this must be followed.

The "cash credit" facility and the overdraft facility are roughly equivalent. An arrangement with the bank results in an overdraft facility, which allows a current account holder to make withdrawals over the credit amount in their account. It is a facility for brief stays. Current account holders who manage their accounts via checks are given access to this function. The client is entitled to withdraw the maximum amount of the overdraft as needed and to return it by making payments into the account whenever it is convenient for them. Typically, a bank will give an overdraft capacity after receiving a written request from the client. To assure the security of the money withdrawn by the client, the bank may sometimes additionally need a promissory note from the borrower or personal security from the borrower. Overdraft interest rates are greater than those for loans.

DISCUSSION

Bills Finance

The bank offers its corporate and non-corporate customers a bill financing option to help relieve the strain on cash flow and support the efficient operation of company. The availability of a bill financing facility fills in gaps in cash flow and frees businesses from worrying about obligations. In addition to fund-based bill financing, we also provide collection agency services for documentary checks and invoices. According to the payment conditions for the items provided, a seller of goods draws a bill of exchange on a buyer under the bills financing method. For efficient supervision, such invoices may be sent from the banker of the seller to the banker of the buyer.

Clean & Documentary Bill

This kind of bill is referred to as a Clean Bill when the paperwork proving ownership of the items are not included. A bill is referred to as a "Documentary Bill" when paperwork proving ownership of the items and other documents are attached to it. Documents giving title to the items they cover, such as RR/MTRs, bills of lading, delivery orders, etc., are referred to as documents of title to goods.

Demand & Usance Bill

A bill of exchange that is due on demand or at sight and is either clean or documentary is referred to as a Demand Bill. The buyer is required to pay the whole amount of such a charge right away and on site. If such a demand bill is a documentary bill, the buyer will only get the paperwork, including the document of title to the items, upon payment of the bill. Usance Bills are bills that are drawn due after a given amount of time or on a certain date, whether they are clean or documented. Such a bill is first provided to the buyer for acceptance; after the customer agrees to pay the bill before the due date, the bill is then presented to the buyer once again for payment. When a documentary usance bill is involved, the buyer receives the papers in exchange for accepting the bill.

Debt Financing against Checks

The distinction between buying and discounting bills. Banks see working capital financing as a way to help borrowers with their post-sale needs via bill financing, either bypurchasing or discounting invoices.Bill The bank lends money to the payee of the cheque or draft and to the drawer of the bills by purchasing them when they are presented by the payee or drawer. This purchase facility is extended against clean demand bills like cheques, drafts, bills of exchange, dollars, and demand documentary bills. The bank then sends the bills to the buyer's bank, its correspondent bank, or ideally its own branch in the site of drawee, for collection.

Bills

A discounting feature is provided for utility bills: In these situations, the seller presents his banker with the usance bill he generally drew along with the documentation proving ownership of the assets, and the banker discounts the billthat is, assesses discount fees for the remaining time left on its termand credits the remaining money to the seller's account. The drawer's bank then sends the bill to the collecting bank in the drawee's center, either to its own branch or the drawee's bank, with instructions to release the papers to title upon acceptance and then to reclaim the bill's balance on the due date. The bank would sometimes additionally tender and discount the accepted usance invoices.

Discounting of bills of exchange by the bank is another means for the bank to make money accessible to the clients in addition to approving loans and advances. Bills of exchange are negotiable documents that let debtors release themselves from their financial commitments to creditors. Such Both domestic and international business transactions result in bills of exchange. The bill of exchange assists this job with the aid of the financial institution when the seller of products must immediately or after the passing of the predetermined period of time realize his dues from the buyer at a remote location. Banks devote a significant portion of their resources on discounting bills of exchange. These invoices may be due immediately or after a certain time.When a bill is discounted, the bank gives the consumer the money before it is due. The bank assesses a certain rate of discount on the bill for this reason. The bill is kept by the bank until its due date and handed to the drawee on the day of maturity after being thus discounted. The amount owed on the bill, together with interest and other fees, is deducted by the bank to the consumers in the event that the bill is not honored by the due date.

Cycle of Working Capital

According to the following principles, the working capital cycle runs:

1. Borrowing firm uses bank financing for operating capital. The bank provides working capital financing after doing the requisite credit analysis. The business takes money out. Depending on the production schedule, the borrower turns the cash into raw materials, which are then employed in manufacturing processes to create semi-finished and final items. The final products are always offered on a credit basis. The seller of the products draws bills of exchange on the purchaser, which become the seller's accounts receivable. The seller pays back the working capital loan amount to the bank on the due date when the drawee pays the bills.
2. The Working Capital Cycle includes two crucial financing activities: financing of inventories and financing of receivables. Inventory is the group of things that includes cash, raw materials, semi-finished products, and completed goods. Receivables are the other items in the cycle that include unpaid bills. Given the above, it is apparent that managing inventory and receivables is a component of working capital management. Effective cost management and a rise in the company's profitability are both possible with efficient management of the firm's inventory and receivables.
3. In general, the holding duration for raw material stockpiles, the time required to transform raw materials into semi-finished and completed items, and the length of the credit term given to customers all affect how long the working capital cycle is. The longer the working capital cycle, the greater the company's need for capital Working capital is categorized broadly into: There are two types of working capital: gross and net. Working capital, gross: Gross working capital is the sum of all current assets. It is often referred to as flowing capital or qualitative capital.

Existing Assets

Limited time Property utilized in the regular course of business Such assets are convertible into cash within a certain time frame.

Current Obligations

Liabilities for the short term that are employed in the regular course of business. These obligations must be paid off within a certain time frame.Usually, the firm's current assets or earnings are used to pay down its current obligations.It stands for the difference between current assets and current liabilities.Banks should be able to determine how much working

capital is necessary for the business or corporation. Because a company with extra working capital has idle cash, which prevents the company from turning a profit. Additionally, it prevents the bank from lending money to another borrower business or corporation that was in need of a loan. However, if the working capital is insufficient, it means the company does not have enough money for its operations, which might lead to reduced productivity.

Both Long-Term and Short-Term Working Capital

The very minimum investment required to maintain a company's operations is maintained on hand as raw material, work-in-progress, completed items, and book debt inventories.

Capital Working Immediately

Temporary working capital is what a company has on hand in order to meet cyclical needs in addition to its permanent working capital. For instance, a clothing exporter could need extra money to cover his shipments to the US and European markets during their festival season. He asks his bank for more credit, and if the bank agrees to let the exporter use more money, it is referred to as temporary or seasonal credit.

Banking on Working Capital

Based on a set of standards, banks provide working capital financing to their customers. The phases are as follows: Level of Firm Turnover: One of the crucial steps in determining the working capital limit is this. The limit for existing enterprises is determined by looking at prior performance. However, while determining the working capital limit for new businesses, attention is given to factors such as the availability of raw materials, manufacturing capacity, industry standards, etc.

Working Banks provide capital financing in the form of overdrafts and cash credit. For a variety of uses, cash credit is granted in exchange for stock pledges, moveable property pledges, or hypothecations. The bank expects the borrower to provide a margin, say 25% of the asset value, while giving a cash credit limit. The customer's ability to withdraw funds is granted by the bank subject to the drawing power, or margin. If the ceiling is set at 100 lakhs and there is a 25% buffer, the drawing power that is subject to the security would be no more than 75 lakhs.

The withdrawal of money from OD accounts would likewise be based on the borrower's drawing ability and margin. Banks must abide by all rules for carefully monitoring the activities in CC accounts. In order to minimize risks, banks should also take the appropriate procedures to guarantee that stock inspections are conducted on a regular basis and that stock values are periodically assessed at market value. All terms and conditions of the credit must be followed, and bank stocks and assets should be insured.The OD is often granted against financial securities like bills of exchange, fixed deposit receipts, shares, tradable market instruments, and book debts, while the CC is almost always given against moveable goods/assets. Banks must adhere strictly to all relevant credit rules in the event of OD as well. Securities are either hypothecated, pledged, assigned, or retained under lien with banks depending on their nature.

Loan Terms

The loan is distributed to the account as a single debit or a series of staged debits. Depending on the conditions of the punishment, the money may be permitted to be paid back in one single payment or many installments. Loans are classified. If the loan's payback time is three years or less, it is called a Demand Loan; if it is three years or more, it is a Term Loan.

In the lending system, credit is granted for a certain reason and a defined amount of time. These loans are often repaid in installments. Funds are only withdrawn once and are needed for a single non-repeatable transaction. The borrower submits a new loan request to the bank if they need money again or wish to extend an existing loan. As a result, whether applying for a new loan or renewing an existing one, the borrower must bargain. Depending on his own financial resources and the credit policy of the central bank, the banker is free to accept or reject such a request.

CONCLUSION

In conclusion, the various credit facilities that are offered may be used to meet a variety of financial objectives and demands. Credit facilities provide both organizations and people with important financial support, whether it is for long-term project financing, short-term cash flow management, or making necessary expenditures. For the effective and long-term use of loan facilities, prudent risk management by both borrowers and financial institutions is essential.

Borrowers may take use of these financial instruments to accomplish their goals and enhance their financial well-being by choosing the appropriate credit facility and using credit responsibly. Before providing loan facilities to borrowers, financial institutions must also do in-depth risk analyses and due diligence.

Banks may reduce credit risks and guarantee the stability of their loan portfolios by implementing conservative lending policies.

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CHAPTER 18

DISCUSSION ON VARIOUS TYPES OF TERM LOANS

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ABSTRACT:

Term loans are a common and essential financial product offered by banks and financial institutions, providing borrowers with a lump sum amount that is repaid over a predetermined period with interest. This paper examines the various types of term loans available to businesses and individuals, including secured and unsecured term loans, fixed-rate and variable-rate loans, equipment loans, bridge loans, and more. By analyzing case studies and relevant literature, this study sheds light on the distinct characteristics, advantages, and considerations associated with each type of term loan. The findings provide valuable insights into the suitability of different term loans for specific financial needs and the importance of prudent borrowing and financial planninga range of options for borrowers seeking financial support for various purposes. Secured term loans, backed by collateral, often come with lower interest rates, making them suitable for borrowers with valuable assets. On the other hand, unsecured term loans do not require collateral, making them accessible to businesses and individuals without significant assets but may carry higher interest rates.

KEYWORDS:

Amortization, Asset-Backed Loans, Balloon Payments, Collateral, Credit Rating, Debt Financing.

INTRODUCTION

If the funds are repayable after a certain amount of time, they are all referred to as term finance. Term loans are given by banks to borrowers for the purchase of fixed assets like land and buildings, factory premises, embedded machinery, etc. to enable their manufacturing activities, and their business expansion. These loans are categorized as short-, medium-, and long-term loans based on how long the borrowers would need the money[1], [2].The ability to set their own interest rates for loans and advances has been granted to banks. CC, OD, and Term loan accounts would be subject to relevant interest and other fees in accordance with the bank's lending and interest rate regulations. According to RBI guidelines, each bank must choose its "base rate" of interest on advances. Short-term loans are those that are repaid within one to three years, medium-term loans are those that take three to five years to repay, and long-term loans are those that take more than five years[3], [4].

Term Loans: Vital Factors

1. Term loans are provided to businesses in the manufacturing, trade, and service sectors that need money to buy different fixed assets, such as land and buildings, equipment, electrical installations, and other introductory and pre-operative costs [5], [6].
2. The ability of the business to generate products or services utilizing the fixed assets that banks have funded would be a factor in the repayment of term loans.
3. The bank evaluates the credit proposal before approving a term loan, just as it does with any other loan. Before awarding term loans, the bank must do a thorough investigation of the borrower's requirements, capabilities, and other factors [7], [8].
4. Before approving a term loan request, the bank must confirm the firm's capability for production, financial standing, and economic viability [9], [10].

5. Banks may offer a term loan on certain terms and conditions, covenants, including payback periods, after adequate verification and fulfillment of relevant criteria.
6. Term loans, like all other credit facilities, must adhere to the Six C ideas, and banks must abide by their lending policies, exposure standards, and RBI requirements.
7. One of the prerequisites for the loan amount to be released should be the execution of all necessary acceptable collateral security.
8. Depending on the kind of security, the assets derived from the bank loan are charged. P.K. Achuthan v. State Bank of Travancore, 1974 K.L.T. 806.

Acceleration of Repayment

The issue that needed to be resolved in this case was whether hypothecation bonds had a clause that gave the lender the right to reclaim the whole amount owed, including any future installments, in one lump sum in the event that the borrower failed to make any of the required payments.

The Kerala High Court ruled that the lender would be entitled to recover the entire sum, including any future instalments, where the contract calls for payment of money in installments and also contains a clause stating that if any instalment is missed, the entire amount becomes due.Bridge Loans Bridge loans are essentially short-term loans given to industrial undertakings to cover their immediate and basic needs while the requirements for obtaining term loans approved by financial institutions are being satisfied or while the necessary steps are being taken to raise the funds from the capital market. These loans are provided by banks or financial institutions themselves, and they are automatically repaid from the proceeds of term loans or capital market investments.

The Reserve Bank of India outlawed bridge loans made to any company in April 1995 by banks and other financial organizations. However, in October 1995, the Reserve Bank of India gave banks permission to grant bridge loans or interim financing against commitments made by financial institutions or other banks when the lending institution is experiencing a temporary liquidity crunch. It is necessary to seek the prior approval of the other bank or financial institution that has approved a term loan.

The term loaning bank or financial institution must pledge to pay the sum of the term loan to the relevant bank. Such a bridge loan's duration shouldn't be more than four months. There would be no grace period for the bridge loan's repayment. to make sure the bridge loan is used for the same reason that the term loan has been approved for. In November 1997, the Reserve Bank gave banks permission to lend firms bridge loans in exchange for stock that was publicly issued in India or overseas.

Each bank is required to establish rules for the approval of such loans, which should include the following aspects:

1. Loan security will be required.
2. The total amount of outstanding bridge loans for the calendar year.
3. Adherence to standards for individual and group exposure.
4. Ensuring the loan's final purpose.
5. The bridge loan's maximum term will be one year.

Blended Loans

A loan is referred to as a composite loan when it is given for both working capital needs and the purchase of capital assets. Small borrowers like craftsmen, farmers, small businesses, etc. are often the recipients of these loans.

Purchase Loans

Banks typically only lend money for productive reasons, but on occasion, they may offer a small amount of money to help the poor pay for things like medical care, schooling, weddings, and other social celebrations. Consumption loans are what they are known as.

Facilities Without Funds

A banker also gives non-fund-based facilities when it comes to lending. Non-fund-based facilities don't need an immediate cash outflow. The banker assumes a risk to pay the sums should a scenario occur.Non-based facilities may include, among others, the following types:

Bank Promises

Banks give guarantees in the context of non-fund-based facilities on behalf of its customers. A bank guarantee is an assurance made to a third party by a banker that, in the event that the bank's client fails to perform, the guarantee will be honored. A bank guarantee is a binding legal agreement that may be required by law. In the event that the customer fails to uphold his obligation to the beneficiary, the banker acts as guarantee and promises the third party that he will pay him a certain amount on the client's behalf.

DISCUSSION

Types of Guarantees

Financial Guarantee

In exchange for a caution deposit or earnest money deposit from the bank's customer, the banker gives a guarantee in the favor of the government agency. The banker makes a guarantee in favor of the government agency at the request of his client in place of a caution deposit or earnest money. An example of a financial guarantee is this. This kind of assurance enables the bank's client to submit a bid for the contract without having to pay any cash. The government department would use the guarantee and demand the money from the bank if the contractor did not accept the given contract.

Assurance of Performance

Banks give Performance Guarantees on behalf of their customers.

For instance, the Indian engineering firm XYZ Ltd. works on a project abroad. Highway construction is the goal of the project in one of the African countries. Required to provide a bank guarantee is XYZ Ltd. The firm is referred to as a project exporter since it has taken on an international project. In order to provide a bank guarantee in support of the African country for whom the firm would build the roadways, XYZ Ltd visits his banker. A bank guarantee is issued by XYS's bank, and it is a performance guarantee. In the event that the project exporter does not meet the beneficiary's expectations, the bank acting as guarantor guarantees that the beneficiary may invoke the guarantee during the guarantee's validity period and that the banker will honor his commitment and pay the amount specified in the guarantee. A guarantee involves the following three parties: and the Banker. Deferred Payment promise The banker guarantees payments made in increments spaced out over time under this promise. For instance:

A offer to pay for a piece of equipment on long-term credit over a period of time in payments on certain dates. B drafts Bills of Exchange on the client for various maturities in accordance with the conditions of the sales contract. A accepts these invoices as payment. These bills of

exchange will be paid on the due date under the banker's guarantee. The banker must pay the seller's claim in the case of failure by A.

Bank Guarantee - Some Key Details

The bank owes the money first and foremost. Even if there is a disagreement between the beneficiary and the debtor, the banker's promise to honor the claim takes precedence. Regardless of the customer's account balance, the bank must honor the claim. When a claim is received within the allotted period, the banker cannot withhold payments in any other circumstances, with the exception of frauds. Additionally, courts have declined to enjoin banks from paying under the guarantee, with the exception of fraud instances

Bank Guarantee: Safety Measures

The size of the guarantee and its duration determine the bank's responsibility under the guarantee. These two crucial elements must be expressly included in the banker's guarantee if not, the bank's responsibility might be limitless.

The client on whose behalf the guarantee is provided should provide the bank with a counter guarantee. To prevent disagreements over the bank's obligation, the amount to be paid under the guarantee should expressly declare, at the time of issuance, whether the amount is inclusive of all interest charges, taxes, and other levies. Except in cases of fraud, the bank is required to pay the whole amount of the guarantee upon invocation. The duration of the guarantee's validity term should be made clear by the bank. The claim duration, which is often longer than the validity period, should also be included in the guarantee.

Additionally, the banker is obligated to make sure that any invocation is made during the validity period, that the amount is not greater than the guaranteed amount, and that the person making the invocation is authorized to do so.

Credit Letters

A bank issues a Letter of Credit on behalf of the recipient at the request of its client. If the beneficiary presents all the necessary papers in accordance with the terms and conditions of the LC, the bank will guarantee or commit to honoring the documents under the LC.

The value of a letter of credit in commercial transactions

There are two types of trade: inland and international. Because of the close proximity of the importers and exporters, banks participate in LC transactions to prevent payment failure. Letters of credit are used as a tool to facilitate commerce and provide exporters and importers the ability to receive and pay for the commodities they sell and buy. Using the letter of credit technique, payments and receipts are processed efficiently.

Parties - Letters of Credit

1. The bank is asked by the applicant to issue the LC.
2. releasing bank
3. Beneficiary Various kinds of banks:

Different LCs

Documents are payable upon sight or upon presentation under this LC. Acceptance Credit/Time Credit: Usance Bills are drawn bills of exchange that are due in the future. Credit use invoices submitted under acceptance are accepted upon presentation and finally paid by the due dates.

Revocable and Irrevocable Credit

A revocable LC is a credit, and the issuing bank may change or terminate its terms and conditions without giving the beneficiaries prior notice. An irrevocable credit is one whose terms and conditions cannot be changed or revoked without the beneficiary's approval. As a result, the LC's stated pledges bind the opening bank.Only irrevocable LCs may be verified for credit. When a banker other than the issuing bank adds its own confirmation to the credit, the loan is referred to as a confirmed loan. The beneficiary's bank would send the paperwork to the confirming banker in the event of confirmed LCs.

Back-to-back credit

In a back-to-back credit, the exporter asks his lender to issue an LC in the supplier's favor so that supplier may purchase products and raw materials based on the export LC that he has received. Back-to-Back credit is the name given to this sort of LC.An Indian exporter, for instance, obtains an export LC from his Dutch customer abroad. The Indian exporter goes to his banker and asks them to issue a letter of credit (LC) in the name of his local raw material supplier. With the support of the export LC, the bank issues an LC.

A LC is not a negotiable instrument, but the bills of exchange issued under it are. Transferable credit. A beneficiary may assign his rights under a transferable credit to other persons. Such an LC need to make it very obvious that it is a "Transferable" LC.The recipient of an LC may get a pre-shipment advance under the terms of the "Red Clause" Credit and the "Green Clause" Credit. Printed products used to have this unique provision. If the exporter agrees that the transportation papers will be supplied by a certain date, the advance will only be given once the products to be exported have been stored.

Standby LC:

Because issuing guarantees is prohibited in certain nations, some nations employ standby credit instead. If the promised service is not delivered, the beneficiary may file a claim in accordance with the standby credit's provisions. For Standby LCs, a simple claim form or evidence of non-performance are needed as supporting documentation.

Documents handled in conjunction with Letters of Credit

In business dealings, documents are essential. A crucial component of LCs are documents. The banks participating in LC transactions solely deal with paperwork, and only the paying banks are required to make payments on the basis of accurate and complete paperwork. Banks must handle papers and LCs carefully in light of these issues. Different banks are obliged to check, at various points, if all necessary papers have been supplied precisely in accordance with the loan terms and conditions. The significant papers handled by LCs fall into the following categories:

Exchange Bill

The recipient draws a bill of exchange on the bank issuing the letter of credit. If a bill of exchange is not drawn under an LC, the bill of exchange is drawn on the drawee by the bill of exchange drawer. In this situation, the exporter assumes the importer's credit risk; but, when the bill of exchange is obtained under a letter of credit, the exporter's credit risk is on the LC issuing bank rather than the importer. Banks should take care to ensure that the Bill of Exchange is drafted exactly in accordance with the credit's terms and conditions. A bill of exchange may be drawn as a sight bill or a usance bill depending on the LC rules; it should

clearly state the LC number; it should be drawn by the beneficiary on the opening bank; and it should clearly identify the amount and other facts.

Business Invoice

Another relevant document is this one. The beneficiary creates a commercial invoice that includes pertinent information about the items in terms of value, quantity, weights, the name and address of the importer, and the LC number. The commercial invoice should accurately represent the description of the commodities as stated in the LC. The commercial invoice should include the terms of the sale contract, such as FOB, C&F, CIF, etc. Other necessary information, such as shipping markings and other particular information as per the LC conditions, should also be provided.

Transport Records

The bill of lading is the transport document used when commodities are transported between ports. According to the circumstances, goods may be carried via air, road, or rail. The document is known as a bill of lading when products are carried by sea, as airway bills when they are transported by plane, as truck receipts when they are conveyed by road, and as a railway receipt when they are transported by rail. A single transport document, known as a "Multi model transport document," might be utilized in the event of a single transaction where many modes are employed to carry the products from the beneficiary's country to the importer's destination.

Advances in Priority Sectors

At a July 1968 National Credit Council conference, it was highlighted that commercial banks should get more involved in funding key industries, such as agriculture and small-scale manufacturing. The nationalization of banks brought forth a new paradigm in bank lending and gave it a social banking component. In the beginning, there was no set objective for priority sector loans. All commercial banks were recommended to reach the aim of priority sector lending at 40% of total bank advances by 1985 in the recommendations of the Working Group on the Modalities of Implementation of Priority Sector Lending and the Twenty Point Economic Programme by Banks. Within the priority sector, sub-targets for financing to agriculture and the weaker s were also established. The scope of priority sector lending as well as the objectives and sub-targets applicable to different bank groups have undergone several adjustments since that time. Based on the suggestions given in September 2005 by the RBI Internal Working Group, the guidelines were amended by the RBI in 2007. The Central Board of the Reserve Bank's Sub-Committee, which was established to explore problems and concerns in the sector of microfinance institutions, has, among other things, urged a revision of the rules governing lending to priority sectors. In order to re-examine the current classification and provide updated recommendations with relation to Priority Sector Lending Classification and Related Issues, the Reserve Bank of India established a Committee in August 2011. The RBI looked into the committee's suggestions, and as of July 1st, 2012, amended guidelines were released. Beginning on April 1, 2013, changes have been made to the agricultural and MSME category of advances.

Goals / Sub-goals for the Priority sector

The targets and sub-targets for domestic and foreign banks operating in India are listed below: For foreign banks with 20 or more branches, the action plans they submitted and received approval from the RBI must be followed in order to meet the priority sector targets and sub-targets within a maximum time frame of five years, beginning on April 1, 2013, and

ending on March 31, 2018. Any further references to these banks in the circular shall follow the authorized strategies. Priority sector and sub-target objectives for the current year shall be calculated using adjusted net bank credit or the credit equivalent of off-balance sheet exposures as of the previous March 31st. Priority sector objectives and sub-targets will be calculated based on the outstanding loans in the sector as of March 31 of the current year. ANBC stands for "outstanding Bank Credit in India" less "bills rediscounted with RBI and other approved Financial Institutions" as well as "permitted non SLR bonds/debentures in Held to Maturity category" as well as "other investments eligible to be treated as part of priority sector lending." Deposits made by banks with NABARD, SIDBI, or NHB, as appropriate, in lieu of not meeting priority sector lending objectives or sub-targets, even when Schedule 8 applies.Investments in the Balance Sheet's itemwill not be taken into account for calculating ANBC. Banks may refer to our Department of Banking Operations and Development's master circular on exposure rules for guidance on how to calculate the credit equivalent of off-balance sheet exposures.

Small and microbusinesses

According to the Ministry of Micro, Small, and Medium Enterprises' S.O. 1642 of September 9, 2006, the following criteria must be met in order for bank loans to micro and small businesses, whether they are engaged in manufacturing or providing services, to be considered in the priority sector:

Direct Investment

Micro and small businesses that produce items for any of the industries listed in the first schedule of the Industries Act of 1951 and as otherwise announced by the government. The investment in plant and equipment is used to characterize manufacturing businesses.Regardless of the scale of operations, location, or initial investment in equipment and machinery, all loans are approved for KVI sector units. Such loans will be eligible for categorization under the priority sector's micro and small business segment's sub-target of 60%, which is set for micro firms.

Direct Investing

Loans to individuals working to support the decentralized sector in the provision of inputs to artisans, village, and cottage businesses, as well as in the marketing of their products. loans made to producer cooperatives operating in the decentralized sector, i.e., cottage industry and artist communities. Banks' approval of loans to MFIs to be refinanced to MSE

Education

Individuals may borrow up to '10 lakh for studies inside India and '20 lakh for studies abroad for educational reasons, including vocational training.

Housing

Loans to people for the purchase or construction of one housing unit per family up to '25 lakh in metropolitan areas with a population over '10 lakh, and '15 lakh in regional centers, excluding loans granted to the bank's own personnel. loans of up to '2 lakh for rural and semi-urban regions and up to '5 lakh for urban and metropolitan areas for households to restore their damaged housing units. Any government agency may apply for bank loans up to a maximum of '10 lakh per dwelling unit for the building of homes or for the eviction and rehabilitation of slum inhabitants. Loans approved by banks for housing projects that are solely intended to build homes for economically disadvantaged and low-income populations

and whose total cost does not exceed '10 lakh per dwelling unit. No matter where you live, there is a specified family income ceiling of $1,20,000 per year for the goal of recognizing the economically weaker and low-income groups. Bank loans to Housing Finance Companies, subject to an aggregate loan limit of '10 lakh per borrower, approved by NHB for their refinance, for on-lending for the purpose of purchase, construction, reconstruction of individual dwelling units, or for slum clearance and rehabilitation of slum dwellers, provided the all-inclusive interest rate charged to the ultimate borrower is not exceeding the lowest lending rate of the lending bank for housing loans plus two percent per annum. Five percent of a bank's overall priority sector lending is the maximum amount that HFCs may receive under priority sector loans on an ongoing basis. The average maturity of loans provided by HFCs and the maturity of bank loans should coincide. The underlying portfolio's essential borrower-wise information should be kept on file by banks.

Export Financing

The success of the priority sector objective will be measured in terms of the amount of export credit provided by international banks with fewer than 20 branches. Export credit does not fall under a distinct category under the priority sector as it relates to local banks and foreign banks with 20 or more branches. Export credit shall be included in the relevant priority sector categories, i.e., farming and the MSE sector.

CONCLUSION

In conclusion, Borrowers are better equipped to decide on their financial requirements when they are aware of the various term loan kinds and their features. Successful loan usage and long-term financial health depend on choosing the right term loan to fit individual financial objectives and establishing prudent borrowing habits.

Financial institutions may promote a good lending experience and contribute to the development and success of companies and people by collaborating with borrowers and offering tailored term loan solutions.

Financial institutions also play a significant part in responsible lending by carefully examining borrowers' credit histories and determining their capacity to repay loans. Banks may increase the success of the loan and reduce credit risks by matching the kind and conditions of the term loan to the borrower's demands and financial capabilities.

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CHAPTER 19

TRANSFER OF ASSETS THROUGH DIRECT ASSIGNMENT /OUTRIGHT PURCHASES

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ABSTRACT:

Transfer of assets through direct assignment or outright purchases is a prevalent practice in the financial industry, where financial institutions transfer assets, such as loans or receivables, to other parties. This paper examines the process of direct assignment and outright purchases, exploring their purposes, benefits, and risks. By analyzing case studies and relevant literature, this study sheds light on the significance of these asset transfer mechanisms in optimizing liquidity, risk management, and financial operations for banks and other financial entities. The findings provide valuable insights into the complexities and implications of asset transfers and their impact on the overall financial landscape.Serves as a strategic tool for financial institutions to optimize their balance sheets, manage risk exposure, and improve liquidity. The process involves the transfer of assets, such as loans or receivables, from the originator to other entities, often with the objective of diversifying risks or freeing up capital for further lending.

KEYWORDS:

Asset-backed Securities, Assignor, Balance Sheet, Credit Risk, Default Risk, Direct Assignment.

INTRODUCTION

Except for theothers category, assignments or outright acquisitions of pools of assets by banks representing loans under different priority sector categories will be eligible for categorization under the relevant priority sector categories provided: Prior to the acquisition, the assets, which were created by banks and other financial institutions, were eligible to be classed as priority sector loans and met the requirements of the Reserve Bank of India's outright purchase/assignment policy. The qualified loan assets acquired in this manner should not be sold other than for repayment[1], [2]. The originating entity's total interest charge to the final borrower cannot be more than the buying bank's base rate + 8% annually. Since there are distinct margin and interest rate restrictions, the assignments/outright acquisitions of qualifying priority sector loans from MFIs that adhere to the rules in Paragraph VIII of this circular are free from the interest rate cap[3], [4]. Banks must disclose the nominal amount actually disbursed to end priority sector borrowers when they conduct the outright acquisition of loan assets from banks or financial institutions to be categorized under the priority sector and not the premium imbedded amount paid to the sellers. Banks are not eligible for priority sector status for purchase, assignment, or investment transactions with NBFCs if the underlying assets are loans secured by gold jewelry.

J. Banks' purchase of Inter Bank Participation Certificates

If the underlying assets can be classified under the relevant categories of priority sector and the banks meet the Reserve Bank's requirements for IBPCs, Inter Bank Participation Certificates purchased by banks on a risk-sharing basis will be eligible for classification under those categories. K. Bank Loans to MFIs for On-Lending. For on-lending to

individuals and members of SHGs/JLGs, bank credit to MFIs that is granted on or after April 1, 2011, shall be eligible for classification as a priority sector advance under the relevant categories. agriculture, micro- and small-scale business, and "others," as indirect financing, provided that at least 85% of the MFI's total assets are "qualifying assets[5], [6]. Additionally, the total amount of loans issued for income-generating activities accounts for at least 70% of all loans made by MFIs. The term "qualifying asset" refers to a loan made by an MFI that meets the requirements listed below: The loan is to be given to a borrower whose household yearly income does not exceed '60,000/- in rural regions and '1,20,000/- in non-rural areas. The maximum loan amount is 35,000 in the first cycle and 50,000 in future rounds. The borrower's total debt does not exceed £50,000. When the loan amount surpasses $15,000, the loan's term must be at least 24 months, with the borrower having the option of prepaying without incurring fees. There is no security for the loan.

The borrower may choose to repay the loan in weekly, fortnightly, or monthly payments[7], [8]. In order to qualify to categorize these loans as priority sector loans, the banks must further guarantee that MFIs abide by the following margin and interest rate limitations as well as other "pricing guidelines". All MFIs have a 12% margin limit. The average biweekly balances of outstanding debt must be used to compute the interest expense, and the average fortnightly balances of the loan portfolio of eligible assets must be used to determine the interest revenue.For all MFIs, there will be a 26% annual interest maximum on individual loans, computed on a declining balance basis. There are only three elements that may be included in a loan's pricing: an insurance premium, an interest charge, and a processing fee that cannot exceed 1% of the total loan amount.

The margin limit and the 26% interest cap are not to be applied to the processing fee. Only the actual cost of insurance, such as group insurance for the borrower's and their spouse's life, health, and livestock, may be collected; administrative costs may be recovered in accordance with IRDA norms. There shouldn't be any consequences for paying late. No margin or security deposit will be required. A Chartered Accountant's Certificate stating, among other things, that 85% of the MFI's total assets are in the nature of "qualifying assets," the total amount of loans extended for income-generating activity is not less than 70% of the total loans given by the MFIs, and pricing guidelines are followed, should be obtained by the banks from the MFI at the end of each quarter[9], [10].

The Rural Infrastructure Development Fund established with NABARD and other Funds with NABARD/NHB/SIDBI/other Financial Institutions shall be allocated amounts for contribution, as determined from time to time by the Reserve Bank, to all Scheduled Commercial Banks having Shortfall in Lending to Priority Sector Target/Sub.The accomplishment levels of priority sector loans as of March 31st shall be taken into consideration for the allocation of RIDF and other Funds, as determined by Reserve Bank from time to time. According to the rules and regulations of the program, NABARD or other financial institutions may draw upon the deposits under the different Funds. The Reserve Bank of India will periodically set the interest rates on banks' contributions to RIDF or other Funds, periods of deposits, etc.

The Reserve Bank will then transmit these rates to the respective banks each year at the time that funds are allocated. The misclassifications recorded by the Department of Banking Supervision of the Reserve Bank would be adjusted or lowered from the accomplishment of that year, to which the amount of declassification/misclassification applies, for distribution to different funds in succeeding years. When issuing regulatory clearances or licenses for different reasons, non-achievement of priority sector objectives and sub-targets shall be taken into consideration.

DISCUSSION

Common Guidelines for Priority Sector Loans

For all kinds of advances under the priority sector, banks shall adhere to the following general rules.

Interest Rates

Interest rates on different priority sector loan categories shall be in accordance with DBOD guidelines as they are periodically released.

Services fees

On loans to the priority sector up to $25,000, there shouldn't be any loan-related or ad hoc service fees or inspection fees assessed.

Register of Receipt, Sanction, Rejection, and Disbursement

The bank should keep a register or electronic record in which the date of receipt, approval or rejection, disbursement, and the reasons for each are noted. All inspection agencies should have access to the register or electronic record.

Issue of Loan Application Acknowledgement

For loan applications submitted under priority sector loans, banks must confirm receipt. Bank Boards should include a deadline for the bank to notify applicants in writing of its decision.

On-lending:

Banks may only authorize loans to qualified intermediaries for further lending in order to create assets for the priority sector. The average maturity of the priority sector assets resulting from this should coincide with the bank loan's maturity.

Small and Marginal Farmers:

Farmers having up to 1 hectare of land under their control are referred to as Marginal Farmers. Small Farmers are those who own more than 1 hectare of land but less than 2 hectares of land. Small and marginal farmers include landless agricultural laborers, tenant farmers, oral lessees, and share-croppers whose portion of landholding is under the aforementioned limitations defined for "Small and Marginal Farmers" for the purposes of priority sector loans.

Other elements

The attainment of the aim for the priority sector does not include contingent liabilities or off-balance sheet items. In cases where a contingent obligation or off-balance sheet item is considered to be part of meeting a priority sector objective, banks should declassify such accounts with retroactive effect.

When calculating the credit equivalent of off-balance sheet exposures for the priority sector goals, off-balance sheet interbank exposures are eliminated. Interest, processing costs, and service fees are all included in the phrase "all-inclusive interest".

Banks must make sure that loans provided to the priority sector are used for authorized purposes and are continually evaluated. In this respect, the banks should set up suitable internal controls and procedures.

Government-sponsored programs that are credit-linked

Government of India and Reserve Bank of India have directed all commercial banks in India to actively participate in government sponsored credit-linked schemes. Targets are also assigned to various banks based on the number of branches in the area and the volume of lending. In addition to other state-sponsored programs, the central government has started the following two significant programs:

Mission for Rural Livelihoods in America

With effect from April 1, 2013, the National Rural Livelihood Mission has been introduced by the Ministry of Rural Development of the Government of India, replacing the current Swarnajayanti Gram Swarozgar Yojana. The government's main initiative is NRLM. of India for supporting the alleviation of poverty by strengthening the institutions of the underprivileged, especially women, and providing access to a variety of financial and livelihood services for these institutions. The main tenet of the NRLM community institutional design is a women's self-help group that assembles on the basis of common affinities. The SHGs and its Federations at the village and higher levels are among the institutions of disadvantaged women that NRLM concentrates on creating, nurturing, and developing. Additionally, NRLM would support rural poor people's livelihood institutions. The mission will continuously help disadvantaged institutions for a period of 5 to 7 years until they are able to escape extreme poverty.

Principal components of the plan

The National Rural Livelihood Mission (NRLM) is pushing a significant transition from a solely "allocation based" approach to a "demand driven" strategy, where states have the ability to create their own plans for the development of the capabilities of women SHGs and Federations, infrastructure and marketing, and policies for financial support for the SHGs. Through a "participatory identification of the poor" method, NRLM will determine the target population of impoverished people. The voiceless and poorest of the poor will be protected in this way. In actuality, under NRLM, the poorest of the poorest families have first priority. NRLM will support the establishment of female SHGs based on affinities. It is undoubtedly conceivable for individuals who associate with one another to engage in a shared activity. The NRLM has adopted a saturation strategy to guarantee that every member of the underprivileged in a village is served and that each underprivileged family's lady is inspired to join the SHG. At the local level, all SHGs join forces to establish a federation. A critical support system for the members and their SHGs is the village federation. The next level of federation is the cluster federation. A cluster is a collection of communities contained inside a block. State to State will choose the precise arrangement, although normally a cluster includes of 25 to 40 settlements.

The SHGs and their members are supported in their arduous path out of poverty by the Village and Cluster Federations, respectively. SHGs and their federations will get ongoing assistance from NRLM in the form of hand-holding. By empowering the SHG federations and creating a cadre of community professionals from among the underprivileged women, NRLM will mostly supply this assistance. The objective will transmit the required skills to the federations and community professionals.

The goal of NRLM is to make sure that SHGs may obtain bank financing again and again until they achieve sustainable livelihoods and good living conditions. In SGSY, where the focus was on one-time assistance, this was lacking.

SHGs for women and their Federations

Women SHGs under NRLM typically have 10 to 15 members. This quantity may be at least 5 people for exceptional SHGs, such as those created in distant tribal regions, challenging places, or with impaired members. The NRLM will support affinity-based self-help groups for women. Men and women will only be present in self-help organizations founded for people with impairments, elderly, and other specific categories like transgender people. SHG is an unofficial organization, hence it is not required to register under any societies act, state cooperative act, or partnership company. However, SHG Federations established at the village, cluster, and higher levels must be registered in accordance with applicable State laws.

Financial Support for SHGs

SHGs that have been in operation for at least three or six months and adhere to the "Panchasutra" regular meetings, regular savings, regular internal loans, regular recoveries, and maintenance of accurate records of accounts will get financing from NRLM's Revolving Fund. Only SHGs that have never before received RF will be given RF as corpus, with a minimum of 10,000 and a maximum of 15,000 per SHG. The goal of RF is to improve the group's institutional and financial management capabilities and establish a solid credit history.

Interest subsidy

Since the NRLM's implementation date, no SHG will be eligible for a capital subsidy. On all loans from banks or other financial institutions taken out by women SHGs, NRLM has a provision for interest subvention to cover the difference between the Lending Rate of the Banks and 7%, up to a maximum of '3,00,000 per SHG. In 150 chosen areas, banks will lend to all the women SHGs at 7% up to an aggregated loan value of $3,000,000. This will be made accessible across the nation in two ways. The SHGs will also get an extra 3% interest subsidy for quick payment, bringing the overall interest rate down to 4%. Additionally, NRLM compliant women SHGs will be registered with SRLMs in the remaining districts. Subject to the guidelines established by the different SRLMs, these SHGs are eligible for interest subsidies up to the difference between the lending rates and 7% for loans up to 3 lakhs. SRLMs will implement this portion of the plan.

Fund for Community Investment

Through the Federations at the Village and Cluster levels, CIF will be given to the SHGs in the intense blocks, where it will be kept up forever by the Federations. The Federations will utilize the CIF to carry out common/collective socio-economic activities, such as making loans to SHGs.

Banks' function

Creation of Savings Accounts:

Banks' involvement in SHGs will start with the creation of accounts for all Women SHGs, SHGs with Disabled Members, and Federations of the SHGs. The Reserve Bank of India's 'Know Your Customer' regulations, as updated from time to time, are applicable for customer identification.

Lending Standards

The following requirements must be met in order for SHGs to be eligible for loans:According to the SHGs' books of accounts, SHGs must have been operating for at least the previous six months and not only from the day the S/B account was opened. SHG need to practice

"Panchasutras," that is. Regular gatherings, regular saves, regular interjoins, prompt repayment, and up-to-date financial records; qualified in accordance with NABARD-established grading standards. The grading process might be carried out by the Federations of the SHGs as and when they are established in order to assist the Banks. If restored and kept active for a minimum of three months, the currently defunct SHGs are also eligible for credit.

Loan amount:

The various dosages of help under NRLM are emphasized. This would include providing repeated doses of credit over time to a SHG in order to let them access larger amounts of credit for establishing sustainable livelihoods and raising their standard of living. Following should be the amounts for the different dosages of credit: first dose: 4–8 times the anticipated corpus for the year or $50,000, whichever is greater.The second dosage is between 5 and 10 times the current corpus and the suggested saving over the next year, or Rs. 1 lakh, whichever is larger.

Third dose:

A minimum of 2 lakhs, as determined by the microcredit plan developed by SHGs and evaluated by federations or support organizations, as well as the prior credit history.

From the fourth dosage forward, the loan amount may range from 5 to 10 lakhs and/or be more in later doses. The loan amount will be determined by the SHGs' and their members' Micro Credit Plans. The loans may be utilized by the individual members of the SHGs to fund any feasible shared activity initiated by the SHGs or to address social necessities, high-cost debt swapping, and the adoption of sustainable lifestyles.

Other requirements for eligibility

The recipient must provide the applicable branch of the Banks with a certified copy of the caste/community certificate or other relevant document issued by the appropriate authorities in the event of other special categories, together with the Margin Money Claim. Where applicable, a certified copy of the institutions' bylaws must be included to the Margin Money Claim. The cost of the project will comprise capital expenditures and working capital for one cycle. The Scheme does not finance projects without capital expenditures. The Regional Office or Controller of the Bank's Branch must approve projects costing more than '5 lakh that do not need operating capital, and claims must be presented with such certified copies of permission from Regional Office or Controller, as the case may be. The project's cost shouldn't include the cost of the land. The cost of a ready-built work shed or workshop, as well as the cost of a lengthy lease or a rental work shed or workshop, may be included in the project cost as long as it is limited to inclusion in the cost calculation for the project for no more than a maximum of three years.

Except for the activities included in Village Industries' negative list, PMEGP is applicable to all new, viable microbusiness ventures. Old or existing units are ineligible. Margin money is only available to institutions, production cooperative societies, trusts that have been officially registered as such, as well as SC/ST/OBC/Women, Physically Handicapped, Ex-Servicemen, and Minority Institutions who have the relevant requirements in their bylaws. Institutions, Production Cooperative Societies, and Trusts, on the other hand, will be eligible for Margin Money under the general category if they are not classified as belonging to special categories. Only one member of each household is eligible to receive financial aid for starting PMEGP projects. My husband and I make up the 'family'. Quantity and Type of Financial Assistance The most expensive project or unit that may be approved within the manufacturing sector is

25 lakhs. The highest project/unit cost that may be submitted under the business/service sector is '10 lakh. Depending on the location of the unit and the various types of borrowers, the Central Government offers capital subsidies ranging from 10% to 35%.

Beneficiaries' names are identified

A Task Force made up of officials from the State KVIB, the State DIC, and the State Banks identifies the beneficiaries at the district level. The District Magistrate/Deputy Commissioner/Collector in question is in charge of the Task Force. The involvement of the bankers from the outset ensures that application bunching is prevented. However, candidates who have previously completed training lasting at least two weeks via the Entrepreneurship Development Program, the Skill Development Program, the Entrepreneurship Cumulative Skill Development Program, or Vocational Training are eligible to submit their applications directly to the banks. However, the Task Force will review the application after being referred by the Banks. Exaggerating the project's cost in order to merely get a larger subsidy amount shouldn't be permitted. In collaboration with SBI and RBI, KVIC will create a score card that it will send to the District Level Task Force and other State/District officials. The criteria used to choose the recipients will be based on this scoreboard. The KVIC and Ministry websites will also include this scorecard. Panchayati Raj Institutions should be included in the process of selecting the guidelines, and the selection procedure should be open, objective, and fair.

Bank Financing

In cases where the recipient or institution falls under the general category, a bank will authorize 90% of the project cost, and in cases where they fall under the special category, 95%, and will distribute the whole amount in a way that is appropriate for the project's setup. Working capital will be financed by the bank as a cash credit, while capital expenditures will be financed by a term loan. The Bank may also provide project financing in the form of a composite loan that combines working capital and capital expenditures. After subtracting 15-35% of the margin money and the owner's contribution of 10% from beneficiaries belonging to the general category and 5% from beneficiaries belonging to special categories, the amount of the bank credit will range between 60-75% of the overall project cost. Therefore, increased allocations and loan approvals from participating banks are required for this plan. This is anticipated to be accomplished since the Reserve Bank of India has already provided Public Sector Banks with instructions to guarantee a 20% annual increase in lending to the MSME Sector. Along with other scheduled/commercial banks, SIDBI is designated as a participating financial institution under PMEGP and is boosting its loan operations to micro companies in order to reach 50 lakh new beneficiaries over five years commencing in 2006-07.

Even though Banks will claim Margin Money based on projected Capital Expenditure in the project report and approval thereof, Margin Money will only be retained on the actual an ailment of Capital Expenditure and any excess, if any, will be refunded to KVIC as soon as the project is ready for the start of production. Within three years of the lock-in term for margin money, the working capital component must be used to at least 75% of the sanctioned maximum and at some time reach the 100% limit of Cash Credit. The Bank/Financial Institution is required to reclaim a proportional amount of the Margin Money and repay it to the KVIC at the conclusion of the third year if it does not reach the aforementioned maximum.

Interest Rate and Repayment Plan

Charged interest will be at the standard rate. After an initial moratorium, the repayment plan may be between three and seven years, depending on what the relevant bank or financial

institution specifies. It has been noted that banks often demand credit guarantee coverage, regardless of the proposal's merits. It's important to discourage this strategy. The RBI will provide the required instructions to the banks so they may give PMEGP projects priority when approving them. To determine which RRBs and other banks would not be allowed to execute the Scheme, the RBI will also release additional guidelines.

CONCLUSION

In conclusion, the transfer of assets through outright purchases or direct assignments has a substantial impact on how well financial institutions can manage risk. Banks and investors may improve their financial operations, get the advantages of diversification, and contribute to a more strong and resilient financial system by deliberately and ethically using these asset transfer methods. To guarantee the success and stability of asset transfers, due diligence, regulatory compliance, and risk assessment are essential.

These asset transfer techniques do, however, come with certain hazards. Originators are required to do extensive due diligence and guarantee the caliber of the transferred assets. To make wise investment selections, investors must also evaluate the creditworthiness and performance of the underlying assets. Asset transfers must also adhere to regulatory specifications and accounting rules to preserve openness and financial integrity. To guarantee the validity and enforceability of these transactions, proper documentation and transparency are crucial.

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CHAPTER 20

EXAMINES THE CONCEPT AND WORKINGS OF KISAN CREDIT CARD SCHEME

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ABSTRACT:

Credit card schemes are popular financial products that provide consumers with a convenient and flexible means of making purchases on credit. This paper examines the concept and workings of credit card schemes, including the roles of card issuers, card networks, merchants, and cardholders. By analyzing case studies and relevant literature, this study sheds light on the significance of credit card schemes in modern commerce, the benefits and risks they present to consumers and financial institutions, and the role of regulatory oversight in ensuring responsible credit card usage. The findings provide valuable insights into the complexities of credit card schemes and their impact on the financial landscape.Credit card schemes have revolutionized the way consumers make payments, offering convenience, security, and purchasing power. They enable cardholders to make transactions without carrying cash, while also providing the flexibility to repay the outstanding balance over time.

KEYWORDS:

Annual Fee, Balance Transfer, Cardholder, Credit Limit, Credit Score, Grace Period.

INTRODUCTION

The Kisan financial Card Scheme intends to provide farmers sufficient and prompt financial assistance from the banking system via a single window for their farming and other requirements as indicatedto provide the short-term credit needs for agricultural production, post-harvest costs, a loan for produce marketing, and the household's consumption needs[1], [2]. Working capital for maintaining farm equipment and related agricultural businesses including dairy farming and inland fishing, among others.

Required investment loan for farming and related operations such as pump sets, sprayers, dairy animals, etc. The sum of the components listed in letters a through e above will make up the short-term credit limit part, and the sum of the components listed in letters beneath f will make up the long-term credit limit portion. Tenant farmers, share croppers, and other types of SHGs or Joint Liability Groups of Farmers[3], [4].

Fixing the loan or Credit Limit

The Kisan Credit Card's credit limit may be set as follows: any farmer except from marginal ones. The first year's short-term cap is as follows:

For growers that only produce one crop every year:

Crop financing scale x Cultivated area plus 10% for post-harvest, household, and consumption needs plus 20% for farm asset repairs and maintenance costs plus crop insurance, PAIS, and asset insurance.

Limit for the following years

The first-year limit for crop cultivation purposes was calculated as described above plus 10% of the limit for cost inflation or a rise in the amount of financing each succeeding year, as

well as the expected term loan component for the five-year term of the Kisan Credit Card.The cap is to be set as described above, with an extra 10% of the cap set aside for cost inflation or an increase in the size of financing for each succeeding year, based on the crops grown in accordance with the anticipated cropping pattern for the first year. It is anticipated that the farmer would continue to plant his crops in the same way for the next four years. The restriction may be adjusted if the farmer's farming strategy changes in the following year[5], [6]. Term loans for investments in land development, small irrigation projects, farm equipment purchases, and other related agricultural endeavors.Based on the unit cost of the asset(s) the farmer plans to purchase, the related activities already being carried out on the farm, and the bank's assessment of the farmer's repayment capacity in relation to the total loan burden devolving on the farmer, including existing loan obligations, the banks may fix the quantum of credit for term and working capital limit for agricultural and allied activities, etc. The maximum long-term loan amount is determined by the projected investments over the next five years and the bank's assessment of the farmer's ability to repay the loan[7], [8].

The maximum permitted limit

Maximum permissible limit, also known as the Kisan Credit Card Limit, will be determined by adding the short-term loan limit set for the fifth year to the anticipated long-term loan demand.

Set Sub-limits for Farmers Other Than Marginal Farmers:

Interest rates for term loans and short-term loans are set differently. Furthermore, the Interest Subvention Scheme/Prompt Repayment Incentive Scheme now covers short-term agricultural loans. Additionally, the short-term and long-term loan repayment schedules and standards are different. Therefore, the card limit is to be divided into distinct sub limits for short-term cash credit limitations combined with savings accounts and term loans in order to have operational and accounting simplicity[9], [10].The cropping pattern should be used to determine the drawing limit for short-term cash loans, and the amount that may be used for crop production, farm asset maintenance and repairs, and personal consumption may be decided by the farmer. A revised drawable limit may be established and the farmer informed of it in the event that the district level committee's review of the scale of funding for any given year exceeds the notional increase of 10% considered while determining the five-year limit. If such adjustments call for an increase in the card limit itself, the farmer will be informed and the change may be made. Depending on the kind of investment and the repayment plan created in accordance with the economic life of the proposed investments, installment withdrawals for term loans may be permitted. It must be assured that the total obligation is never more than the applicable year's withdrawal limit. The banks may take sui collateral in accordance with their policy in cases when the card limit or debt thus determined justifies extra security.

DISCUSSION

For Marginal Farmers

In addition to small term loan investments like the purchase of farm equipment, establishing mini dairy/backyard poultry as per Branch Manager's assessment, a flexible limit of '10,000 to '50,000 be provided based on the land holding and crops grown, including post-harvest warehouse storage related credit needs and other farm expenses, consumption needs, etc. On this basis, the composite KCC limit is to be set for a five-year period. The limit may be determined according to the anticipated needs in cases when a greater limit is necessary because of changes in the cropping pattern and/or the amount of financing.

Disbursement

The KCC limit's short-term portion is a kind of revolving cash credit facility. The quantity of debits and credits shouldn't be limited. However, any portion of the drawable limit that is used in a given year must be paid back within a year.

Combined Card Limit

Until a composite card with the necessary software to separately account transactions in either sub limit could be issued, two separate electronic cards may be issued. This is because the credit card limit and the term loan limit are two separate components of the aggregate card limit with different rates of interest and repayment periods.

Existence / Renewal

The KCC's validity duration and periodic review are up to the banks to decide. Depending on the borrower's performance and an increase in cropping area or pattern, the review may lead to a continuation of the facility, an increase in the limit, or a cancellation of the limit and withdrawal of the facility. The time for determining whether the farmer's activities are acceptable or not is prolonged along with the increased limit when the bank grants an extension and/or rescheduling of the payback period due to a natural disaster that affects the farmer. When a longer extension is requested than one crop season, the total debits for which the extension is allowed must be moved to a different term loan account with a payback schedule requirement.

Interest Rates

Rate of Interest will be determined at the banks' exclusive discretion and will be linked to Base Rate.

Repayment Timeframe

Every withdrawal that falls within the short-term sub-limit calculated in Paragraph 3 above may be liquidated in 12 months without requiring the account's debit balance to be zero at any point in time. No withdrawal should be outstanding in the account for longer than a year. Depending on the kind of activity or investment, the term loan component will typically be repaid within a 5-year period in accordance with the current rules for investment credit. Depending on the nature of investment, financing institutions may, at their option, provide term loans with extended payback terms.

Security

Security shall be used in accordance with RBI norms that are periodically established. According to current RBI standards, the security requirement may be as follows: Hypothecation of crops up to a card limit of "1.00 lakh." Banks may think about approving loans on crop hypothecation up to the card maximum of $3,000,000 without requiring collateral security. For loan limits beyond '1.00 lakh in the case of non-tie-up and '3.00 lakh in the case of tie-up loans, collateral security may be requested at the bank's discretion. The same must be guaranteed in states where banks have the option of creating charges for land records online.

Other Circumstances

The banks would take into account such requests in accordance with the existing process and rules in the event that the farmer applied for a loan based on the warehouse receipt of his product. However, if a crop loan account exists, such loans should be connected with it. If the

farmer so chooses, the crop loan balance in the account may be cleared at the time the pledge loan is disbursed. The KCC card would be created by the National Payments Corporation of India and branded with each bank.

All new KCC must be given in accordance with the KCC Scheme's updated rules. Furthermore, farmers must get smart cards while renewing their KCCs.A SHG is primarily utilized as a loan distribution mechanism in microfinance. It is a voluntary organization created by the members collectively with the goal of eradicating member poverty. The SHG members commit to monthly savings in order to build up a collective fund known as the group corpus. Members of the SHGs are encouraged to develop a saving habit. With a shared objective for the growth of the general economy, the SHG mobilizes the resources of its individual members. The SHG helps banks and other financial organizations recover debts. Women are given more influence by SHGs in the realm of development

SHGs: key components

Typically, a SHG has between 10 and 20 members. The number of members may range from 5 to 20 in certain unique locations, such as hills, deserts, and sparsely populated places, as well as in cases of people who are physically or economically disadvantaged. A SHG may only have one member from each family. A SHG should ideally have all of its members come from households who are below the poverty line. All members of a SHG are required to consistently contribute to the group's shared savings since it is the major goal of the organization. The members' funds are not subject to interest payments. The members shouldn't be pushed to reduce their savings amount in order to pay off their SHG loan. There must be an SB account for each SHG.

The SHG must approve a resolution at a group meeting that is signed by every member before opening an account. When establishing a bank account, the resolution must be presented to the bank. Account operations: The SHG must give at least three members—any two of them—permission to jointly manage the bank account. The group's name should be on the bank account, not the names of individual participants. The SHG should formally establish the terms and circumstances under which it will operate in relation to lending to its members.

Joint Liability Groups Financing

A JLG is an organization that is mostly made up of tenant farmers, small farmers who cultivate land without having legal ownership to that property, and rural business owners that engage in non-farm activities.

JLG: some key characteristics

Residents of the same town or neighborhood choose to work together as a joint liability group. Each member must have confidence in the other members in order to assume shared responsibility for both individual and group loans, which is one of the crucial conditions. A JLG may include only one member from each family. The members must be engaged in agricultural activity within the bank branch's service area for at least a continuous period of not less than one year. Any other official financial institution should not consider such members to be defaulters.

Buying Finance

By offering retail loans, banks help their customers meet their short-term financial demands. Consumer and personal loans are under the umbrella of retail finance.

Individual Loans

Banks that provide retail financing provide two significant loans: personal loans and consumer loans. Banks often provide personal loans with no real security. Such loans are mostly often offered to those who are employed based on their regular source of income, which is their wage.

Purpose

to pay for wedding, vacation, or medical and educational costs. Some banks also provide loans for celebrations of festivals and events.

Eligibility

Although various banks have distinct operating procedures, the terms and conditions may change based on the bank's policy. Regular and permanent workers of the federal and state governments, as well as those working for reputable corporations and industrial facilities in both the public and private sectors, must have a minimum number of years of service.

Sum Borrowed

The loan amount is determined by multiplying it by the gross/net salary. When determining the loan amount, the net take home pay would also be taken into account. Some banks demand that the minimum take-home income after the projected EMI for the loan be 35 to 40 percent of the gross wage.

Partnership Finance

In general, banks lend money to customers in accordance with their lending policies. A single banker could sometimes be unable to fund a client. When many banks work together to jointly provide a borrower with loans, advances, and other credit facilities, this kind of financing is known as consortium finance.

Because of regulatory constraints and limitations on the number of single and group borrowers, banks lend under consortium financing. as a component of banks' policies on risk management and diversification. At a borrower's desire

Consortium Financing is the term used to describe when two or more banks work together to provide money to a borrower. In the event of consortium financing, a banker would have been designated as the "Lead Bank" based on a written agreement amongst the consortium's member banks.

As the group's head, the lead bank's duties would include organizing meetings amongst the member banks, actively participating in credit evaluation, obtaining legal documentation, ensuring that the right charges are placed on assets, and monitoring the account.

Commerce Finance

Through their "Trade Finance" funding, which they provide to traders, banks play a critical role in ensuring their financial security and comfort. To aid traders in their trading operations, trade finance is provided in the forms of fund-based and non-fund-based financing. The borrower might be a manufacturer, dealer, or trader who needs term financing and working capital to manage his production and cash flows. Banks also provide credit facilities in the form of non-fund-based facilities, also known as non-fund based limitations, such as letters of credit and bank guarantees, apart from these types of loans where the banker permits the borrower to withdraw real cash. Both domestic and EXIM merchants are eligible to get trade

financing. Inland trade finance is defined as when a bank provides financing that is mostly made up of rupee money to help a borrower acquire or sell products and services inside of India. On the other hand, a banker is providing loan known as overseas trade financing if he helps his borrower manage import and export activity in international commerce.Bills financing is another sort of trade finance that banks provide to their customers.

Finance for exports and imports

A banker offers credit facilities to an Indian exporter in the forms of pre- and post-shipment credit. Both fall within the category of fund-based constraints. They both amount to "working capital finance" provided to an exporter when combined.The exporter is given pre-shipment credit, also known as packing credit, to help him with the purchase of raw materials and the transformation of the raw materials into completed and exported items. An exporter may create the items and maintain them ready for export with the help of bank financing. In other words, the bank is providing financing in the form of inventory finance based on the exporter's inventory. The reason it is referred to as "pre-shipment credit" is because manufacturing takes place before export items are sent.

Features and safety measures for Pre-shipment Credit

1. The lender should determine if the borrower qualifies as an exporter. The government assigns an exporter's code to each exporter. authorities.
2. In order to promote exports, export financing is made available at a reduced interest rate. Therefore, while issuing export credit, banks should follow the regulator's instructions and directives as well as the bank's policy and exposure standards.
3. The regulations of "FEMA, 1999" should also be followed by banks since export receivables will cause a foreign currency influx. Banks should be cautious when reporting requirements of export and import financial transactions in the stipulated forms and frequency since export and import of goods and services are considered as current account transactions.
4. Export credit is also eligible to be included in the objective or sub target of priority sector lending, as far as foreign banks operating in India are concerned.
5. An exporter is always given pre-shipment credit in exchange for an export letter of credit that has been obtained in their favor. Before granting export credit, banks should confirm that all necessary documentation, export watch lists, etc., are there. The letter of credit's terms and conditions, as well as, if necessary, the relevant requirements of UCPDC 600, should satisfy banks.
6. Based on the kind of letter credit, banks should only offer pre-shipment credit for the fob value and not for any other value, such as the c&f or cif value of the lc. It is necessary to maintain a sufficient margin on the FOB value and provide the exporter an export credit in line with that.
7. After items are shipped, the exposure to pre-shipment credit should be balanced against post-shipment credit, which involves discounting export invoices.

The pre-shipment credit and post-shipment credit are linked and granted for the same goods. By establishing the overall limit, which is equal to both pre-shipment credit and post-shipment credit, the bank informs the exporter that at any given time, the exporter can have a maximum exposure of $1,000,000 as export credit and the o/s of "1,000,000 in pre-shipment and nil o/s in post-shipment or nil o/s in pre-ship.

Through this process, banks would be in a better position to manage the export credit risk after the items are shipped. Banks are also in a position to gain additional: Forex business and they may issue forward exchange coverage. Increased money from fees and

exchange/discounts made when managing export invoices. Banks may be able to disclose export transactions more effectively. Exporters are given access to non-fund-based restrictions via bank guarantees that are provided on their behalf.

Trade Finance

As part of trade finance, banks provide loans and other facilities to an import client for his import activity. In general, banks provide non-fund-based limitations, such as letters of credit, to an import client. As per their agreement, the bank would pay against the documentation obtained from the exporter's banker on the specified day and then seek reimbursement from the importer. As part of fund-based import financing, the lender would provide an import loan if the importer did not have a sufficient balance in his account.

Banks must use due care when working with importers and providing import financing.

1. The bank shall adhere to its lending policy, exposure standards, RBI directives, and FEMA, 1999 rules.
2. Although most of the time only letter of credit limits are given, even though they are unfunded, banks should still exercise all necessary caution, carefully assess each customer's creditworthiness, and make sure all necessary procedures are followed to prevent any NPA situations once the unfunded limit is converted into fund-based import financing.
3. To protect the bank's position, the importer's status and credentials must be confirmed, just as they are for an exporter.
4. To allow the banker to make payment in accordance with the letter of credit on time, careful monitoring of the funding status in the importer's account is essential. In order to guarantee that the funds are accessible on the due dates, banks may also get adequate margin and liens on their fixed deposits.
5. Banks should abide with the rules for reporting.
6. In addition, all additional safety measures must be done to address the hazards.

In addition to the aforementioned, banks may provide their export and import customers foreign currency forward covers. According to the rules of their bank, they may also provide derivative goods. In all of these situations, banks should adhere to their credit and risk management policies as well as all applicable legal and regulatory obligations. It would be simpler for the banks to keep track of the exposure of the export credit if both credit facilities were offered. The reporting of the realization of export revenues is the obligation of the banks.

CONCLUSION

In conclusion, Credit card programs have become a crucial component of the contemporary financial environment, offering users convenience and financial flexibility while spurring economic development.

Credit cards provide many advantages, but cautious use and sound money management are necessary to stay out of debt and out of trouble financially. Credit card programs may continue to facilitate transactions and advance financial inclusion with effective regulatory monitoring and client education. Credit risk is a major issue for financial organizations since delinquencies and defaults may affect their profitability and asset quality. Maintaining the viability of credit card portfolios requires responsible underwriting and credit risk management procedures. In order to guarantee ethical credit card, use and consumer protection, regulatory control is essential. Authorities establish rules on the use of credit

cards, fee transparency, billing statements, and terms disclosure. These rules seek to protect customers from dishonest business practices and encourage financial institutions to provide prudent loans.

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CHAPTER 21

LEGAL CONTROL OVER BANK'S DEPLOYMENT OF FUNDS

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ABSTRACT:

Legal control over a bank's deployment of funds is crucial for maintaining financial stability, protecting depositors' interests, and preventing misuse of funds. This paper examines the legal framework that governs how banks deploy their funds, including regulations on lending practices, investment activities, and risk management. By analyzing case studies and relevant legal literature, this study sheds light on the significance of legal control in ensuring responsible and ethical use of funds by banks. The findings provide valuable insights into the complexities and implications of legal control over bank deployment of funds and its impact on the broader financial system.Legal control over a bank's deployment of funds is a critical aspect of banking regulations that aims to protect the interests of depositors and maintain financial stability. Banks have a fiduciary responsibility to manage funds responsibly, ensuring that they are deployed in a manner that is safe, sustainable, and compliant with applicable laws and regulations.

KEYWORDS:

Banking Regulations, Capital Adequacy, Credit Risk, Deposit Insurance, Financial Stability, Investment.

INTRODUCTION

The Reserve Bank of India has established credit exposure guidelines that banks must adhere to in order to prevent excessive loan concentration among a small number of borrowers and to maintain risk potential within reasonable bounds. Exposure standards refer to the maximum amounts that a bank may loan to a single borrower or a group of borrowers, together with non-fund-based facilities. Credit and investment exposure are both considered forms of exposure[1], [2].

Individual and group borrower ceilings

In the event of a single borrower, the exposure maximum restrictions would be 15% of capital funds, and in the case of a borrower group, 40% of capital funds. According to capital adequacy rules, the capital funds for the purpose will be made up of Tier I and Tier II capital. According to published accounts as of March 31 of the prior year and as determined by capital adequacy rules, capital funds for this purpose will be made up of Tier I and Tier II capital.

The maximum amount of credit extended to a single borrower may be up to an extra 5% of the bank's capital reserves, provided that the higher credit exposure is due to the issuance of credit for infrastructure projects[3], [4]. Credit exposure to borrowers in a group may be up to 10% more than the bank's capital exposure standard, as long as the higher credit exposure is due to the offer of credit for infrastructure projects. In addition to the exposure allowed above, banks may, in exceptional cases, with the consent of their Boards, consider increasing the exposure to a borrower by up to an additional 5% of capital funds, provided that the borrower agrees to the banks' inclusion of the necessary disclosures in their annual reports. When the bank exceeded the prudential exposure restrictions throughout the year, the bank

should have disclosed such exposures appropriately in the "Notes on account" to the annual financial statements[5], [6].

Limits on Banks' Capital Market Exposure

No banking company may own shares in any company, whether as a pledgee, mortgagee, or absolute owner, in an amount that exceeds 30 percent of that company's paid-up share capital or 30 percent of its own paid-up share capital and reserves, whichever is less, except as provided in sub- of Section 19 of the Banking Regulation Act of 1949. This represents the maximum combined holdings for each business. These legislative rules should be rigorously followed when making any advance against shares, underwriting any share issuance, or purchasing any shares on an investment account or even in place of debt for any firm[7], [8].

Loan Security for Banks

General Secured Advance Principles

A lender should adhere to the following fundamental criteria when making advances based on client securities:

Suitable Margin

In the banking industry, the term "margin" has a unique meaning and importance. The word "margin" in banking refers to the discrepancy between the security's market value and the sum of the advance made against it. The difference between the two is known as margin, for instance if a lender approves an advance of '70 against the security of goods worth '100. A banker always maintains a sufficient margin for the reasons listed below:

Future variations in the market value of the securities might cause the banker's secured loans to become partially secured. As interest accrues and other charges become due, the borrower's obligation to the banking eventually grows. For instance, if a banker approves a loan of $100 today, the amount of interest accumulated and additional fees that the borrower would be responsible for paying when the loan matures, say a year from now, will raise his obligation. Therefore, a banker maintains sufficient margin to pay for both the current debt and future debt increases[9], [10].

Margin-Determining Factors

For all commodities or clients, the amount of the margin is not constant. The margin is determined by the following elements:

The margin's size is determined by how much the prices of the different commodities are anticipated to fluctuate. For instance, a reduced margin is established if a product has consistent demand and is a necessary consumption item. But it's possible that the cost of luxuries will vary greatly. As a result, the lender should be very careful when accepting it and should set a very large margin. The financial standing and reputation of the issuing company are also taken into consideration when shares of industrial concerns are being purchased. Shares of reliable industrial companies are regarded on par with government securities and need less margin. Margins are set taking into account the credit and reputation of the borrower, therefore a borrower with a stellar reputation may have a lesser margin set against the security of the same product. The margin, which was decided upon when authorizing an advance, may later be increased or decreased in accordance with changes in the values of the securities. Margin requirements are often periodically set by the Reserve Bank for commodities that are subject to its selective credit supervision. It is crucial that the banks maintain these margins.

Marketability of Securities

Commercial banks often offer advances for brief durations since their deposit resources are either repayable immediately or at short notice. The banker must liquidate the security if the client misses a payment deadline. Therefore, it is crucial that the security provided by a borrower may be disposed of without suffering delay or financial damage. Accepting non-marketable assets calls for extreme caution on the part of the banking.A banker is supposed to lend his umbrella while it's sunny and demand it back as soon as it starts to rain. This is accurate since he serves as the trustee for the general populace's money. He cannot help those who are most likely to be destroyed in a philanthropic manner. Therefore, the security's liquidity is of utmost importance.

Documentation

By documentation, we mean that the borrower prepares and signs all relevant paperwork, such as a mortgage or pledging agreement, when obtaining a loan from the bank. Even while it is not legally required for such agreements to be in writing and the simple deposit of commodities or securities will suffice to create a charge over them, getting the borrower's signature on the paperwork is highly recommended. These papers provide all of the terms and circumstances on which the lender approves a loan, making it simple to prevent any misunderstanding or disagreement in the future.

Realization of the Advance

If the borrower fails to pay on the due date, the lender may be able to recoup his losses via the sale of the securities he pledged. As was previously said, a pledgee may sell the securities by properly notifying the pledger of his intention to do so. The lender must provide the borrower a fair amount of time to repay any debts that are repayable upon demand. If there is a need to sell the commodities quickly due to the downward price trend, this time may be shorter. Within three years of the day the advance was approved, a banker must initiate a lawsuit to collect his debts if he is unable to satisfy them in full via the security. The limitation period will begin to run when a term loan that has an extended repayment duration reaches the end of that extended repayment period.

Different Types of Securities

Real estate or land as security for the loan

In the past, bankers were highly hesitant to accept land and buildings as security; but, over time, this bias has changed, and land and buildings are now accepted as collateral for the majority of loans, especially those made to corporate clients. It depends on the kind of property given and cannot be generally applied to all lands to determine the benefits and drawbacks of this sort of protection.

Advantages

Land has the benefit of usually increasing in value over other forms of assets over time. Land's worth rises with every decline in the value of the dollar and is only going to rise owing to the scarcity of land in emerging nations. It cannot be moved, which might sometimes be a drawback.

Disadvantages

Valuation may be challenging at times: The worth of a building is influenced by a number of variables, including its location, size, condition, amenities, and, in the case of factories and

other industrial buildings, its equipment and kind of business. This makes appraisal exceedingly challenging. There are differences between structures and the materials utilized in them. In reality, since there is a little market for sales, structures must be priced conservatively.

determining the owner's title: If the borrower does not own title to the property being mortgaged, the banker will not be able to secure a legitimate title. Because Hindu and Muslim succession rules in India are exceptionally complex, it may be difficult to determine whether a person has a perfect title to the property or not. Therefore, before accepting it as a security, the banking would need to speak with attorneys and get their view, which often causes financing to be delayed. In order to determine if the property was encumbered, title verification must also be performed. This must be accomplished by spending money and effort validating the record with the Registrar's office. The value of agricultural land as a security has decreased as a result of the implementation of land ceiling laws, tenant rights legislation, and the lack of accurate and up-to-date land records. Additionally, a number of laws have been passed in several states forbidding the transfer of land to people who are not farmers and providing debt relief to farmers.

Realizing the security is challenging

Due to the absence of an established market, land is not readily and speedily realizable. It might take months to sell, and if the market isn't favorable, it could sell for less money than was planned.

DISCUSSION

Creating a charge is costly:

Either a legal mortgage or an illegal mortgage may be used to charge the security. A simple deposit of title documents, with or without a note, may establish an equi mortgage.

Even if an equi mortgage is less costly, a lender will always choose a legal mortgage. Considering that a legal mortgage has superior remedies than an equi mortgage.

However, there are costs associated with obtaining a legal mortgage, such as stamp duty, as well as several procedures.

Problem caused by the Rent Control Act:

Selling a property that falls within the jurisdiction of the Rent Control Act would be challenging, especially if a tenant has been occupying it for a long period.

1. The lender should take precautions
2. Soundness of borrower's finances
3. The borrower's financial stability should be more heavily relied upon by the banking.
4. The borrower's name
5. To confirm ownership of the property and the borrower's ability to mortgage, the banker needs use a lawyer.

Requesting information on earlier charges

The borrower must provide a certificate from the Registrar's office stating that the property is free from encumbrances and specifying the charges over it throughout time. Non-encumbrance certificate is the common name for this. The banker's right will be subject to any past charges, if any are present.

Leasehold or freehold

A freeholder has complete control over his property and may use it whatever he pleases. A leasehold property is one that is put on lease for a certain length of time. During that time, the leaseholder has free reign to do as they like with the land as long as they abide by the conditions of the lease and the law. The land reverts to the freeholder once the lease ends. The remaining lease term is a crucial factor when it comes to leasehold property. The value of the security increases with the length of the remaining lease term. A burdensome covenant, such as requiring the freeholder's approval before mortgaging the property, should be avoided, the bank should be sure.

Documentations

The mortgage deed must be properly designed taking into account all legal requirements. For a basic mortgage, two witnesses are required since ad-valorem stamp duty is applied.

Checking the Tax Receipt

Since any tax arrears represent a preference charge on property, the lender should ask the borrower to provide the most recent tax receipts.

Insurance for the Building

In the case of buildings, it is recommended that the lender insist on the insurance of the property for its full value at the borrower's cost to prevent loss of security due to fire or other natural disasters.

Loan Security for Banks

The lender must take the necessary margin to shield himself against changes in the price of commodities. The items must be in the banker's actual or constructive ownership. In the event of items that have been hypothecated, the bank should have a written guarantee from the borrower that the goods are not charged to any other banks or creditors and won't be thus charged for as long as the borrower owes the bank money. Certificates stating the amount and value of the products should be obtained by the banker on a regular basis and physically checked by the banker.

Documents of Goods Title

According to Section 2 of the Sale of Goods Act of 1930, a document of title to goods is "a document used in the ordinary course of business as a proof of possession or control of goods authorizing or purporting to authorize either, by endorsement or delivery, the possessor of the documents, to transfer or receive the goods thereby represented." Accordingly, the necessary conditions for a document of title to goods are: By endorsing and/or delivering the paperwork, the goods they represent may be transferred. The document transferee has the right to accept delivery of the items on his own behalf. Documents of title to things are not negotiable instruments, despite the fact that they seem to be such. Defects in the title of the transferor may impact the title of a bona fide transferee for value. You may refer to them as quasi-negotiable tools.

Bills of lading, dock warrants, warehouse-keeper's certificates, railway receipts, delivery instructions, etc. are a few examples of documentation proving ownership of commodities. It is important to differentiate between records that just recognize the existence of the products and others, such as the warehouse keeper's non-transferable receipts. Bankers prefer documents of title to goods because, under Sections 52 of the Presidency Towns Insolvency

Act of 1909 and Section 28 of the Provincial Insolvency Act of 1920, the possession of goods represented by such documents that are duly endorsed in his favor are removed from the insolvent's order and disposition. This has the benefit of preventing the Official Receiver or Official Assignee, as the case may be, from including such things in the insolvent's assets in the event that the borrower becomes bankrupt.

The Advantages of this Security

The commodities are pledged and act as a good security by the simple act of pledging the instruments. By delivery and/or endorsement, the person in possession of the document may transfer the items. After then, the transferee has the right to accept ownership of the items. The paperwork is simple to transfer, and there are less formalities than with a mortgage or assignment.

Possibility of fraud and dishonesty:

If it turns out that the bags or packages contain worthless goods, the banker will have no recourse against the carrier or warehouse-keeper because the bill of lading, a railway receipt, or a warehouse-keeper's certificate does not certify or guarantee the correctness of the contents. papers that have been altered or forged: Even if the papers are authentic, the quantity may have been changed. papers that are "Not Negotiable": Since these papers are "Not Negotiable," the transferee will not get a title that is superior to the transferors. Therefore, the banker will not get a superior title if the individual who pledged the papers has a faulty title.

Right of halt in transit for unpaid vendors:

According to the Sale of Goods Act of 1930, an unpaid vendor is permitted to instruct the carrier that the goods do not need to be delivered, if they haven't already been. If the underpaid vendor exercises this privilege, the lender will be unable to receive the goods and his security would be worthless.Delivery of the goods is permitted in cases of lost documents, but only upon execution of an indemnity bond. The borrower may abuse this option by selling the goods to another customer, who may then accept delivery while claiming to have misplaced or lost the document and reimbursing the carrier. The lender might inform the carrier of his interest in and the guarantee to avert such a situation.To guarantee that the papers are authentic and recent in origin, they must be carefully reviewed. Bills of lading are often produced in triplicate, necessitating the banker's acquisition of all copies. In any other case, the carrier is discharged from his duty upon delivery of the goods by production of any one copy with purportedly routine endorsements. The lender must make sure that there are no burdensome terms or disparaging statements regarding the condition of the products received in the paperwork. In the event of products delivered by water, all maritime risks should be addressed. The banker should guarantee that the commodities are sufficiently protected by insurance for their full worth against risks of theft, fire, damage in transit, etc.So that the endorsement or transfer of title is precise, the banker should make sure to get the consignee copy and have the bank's name listed as the consignee.

Assurance Receipt

A "Letter of Trust" should be obtained if the bank hands over title documentation for items to the borrower without receiving payment. The same applies to commodities that have been hypothecated to the bank. The following are the reasons: The borrower must retain the profits of the sale of the items in trust for the banker. If the borrower becomes bankrupt, the official

receiver will not have access to the items obtained under such trust receipts or the sale profits therefrom.

The following provisions are included into a trust letter:

The borrower acknowledges the bank's rights in the items as security and, in the event of a sale, the selling profits. The pledge of the borrower to keep the goods—or the sale proceeds—in trust for the lender. The borrower agrees to provide appropriate storage and insurance at his expense. The borrower promises to instruct the buyer to pay the money straight to the lender if the banker so requests. The borrower promises to return unsold items at the lender's request or dispose of them as the banker specifies.

Policy on Life's Purpose

A life insurance policy is bought for two reasons, In the event of the assured's passing, it serves as a source of income for his dependents. It is the best way to save money since paid loans may be generated on the policies in times of need in addition to the income tax deduction on the premiums.

Advantages

The realization of the policies, which will be done without any trouble provided the policy and the claim are in order, need not be doubted by the banker since the life insurance industry is strictly controlled and only authorized to organizations with strong financial standing. There are relatively little procedures involved in assigning the insurance in the banker's favor, and the banker is given a flawless title. The surrender value increases with the length of time the insurance has been in effect. Because the loan may be quickly settled using the insurance funds in the event that the borrower passes away, it can also be used as extra security.When the borrower fails to make payments, the security may be quickly obtained by turning in the policy to the insurance provider. The bank is in charge of the policy, which is a physical security. The banker merely has to make sure that premium payments are paid on time.

Disadvantages

The insurance fails if the premium is not paid on time, and reinstating the coverage is difficult. Insurance contracts are considered to be contracts of the highest good faith, thus any deception or failure by the insured to disclose any information would render the policy unenforceable and allow the insurer to escape the contract.

The contract is invalid unless the party that purchased the insurance has an insurable interest in the life of the assured. Special provisions in the insurance may place limitations on the insurer's obligation.

When a banker accepts an insurance covered by the Married Women Property Act, he must make sure that all parties sign the assignment document provided by the bank.If the original policy is lost, it is possible to get a replica. Individuals may abuse this by purchasing duplicate insurance plans. Therefore, the banker should confirm that no duplicate policies have been issued and that the insurance is unencumbered.

Precautions

The insurance policy must be assigned in the bank's favor, given immediately to the insurance company for registration, and marked with the assignment by only authorized offices of the insurance company.The bank should ensure that the assured's age is acknowledged. The banker is responsible for ensuring regular premium payments.

As Security for the Loan or Advance, Book Debts

In order to get advances, borrowers must assign their book obligations to the bank. The Transfer of Property Act's Section 130 enables the assignment of an actionable claim, and the process is as follows:

Written notice of the assignment must be provided to the debtor, and the assignment may be absolute or by way of charge. The assignment must be made in writing and signed by the transferor or his properly authorized agent.

Assignment's implications in law

An actionable claim includes future debts, so there can be a valid assignment of future debts as well. The assignee can sue in his or their own name and can grant a valid discharge. The debtor can exercise any right of setoff against the assignee that, but for the transfer, he could have exercised against the assignor.

Safety measures should be implemented

The debtor's financial stability and any applicable set-off rights determine the value of the security. The notice of assignment must be served on debtors, who must be asked to acknowledge receipt and confirm the following: The amount of the debt; his right of setoff, if any; and whether he has received notice of prior assignments, if any. The banker must inquire about both aspects. The instrument of assignment must be in writing and duly signed in the banker's presence, signed by the assignor or his duly authorized agent.A deposit is referred to as a "Fixed Deposit" when it is made by a client and is neither repayable immediately nor due until the end of a certain term from the date of the deposit. A fixed deposit receipt, issued by the banking, serves as proof of a deposit. On such deposits, interest is paid periodically at a set rate. In most cases, banks allow depositors to borrow against their deposits.This security is unquestionably the most valuable since the funds represented by the receipt are already in the bank, thus there are no issues with value, title inquiries, storage issues, or storage-related charges.

Precautions

Only the individual whose name the money is put in should be given the advance by the banking. A banker shouldn't advance against other banks' fixed deposit receipts. This is due to the usual lien that the banker who received the deposit will have over those funds. The bank that received the deposit may even refuse to record the lien in the lending bank's favor, even after receiving notification from the lending bank. If the deposit is in joint names, then each of them must submit a loan request. When the deposit receipt is used as security, the banker must make sure that all depositors properly release it on the document's reverse after applying the proper revenue stamp. Additionally, the banker should acquire a letter of appropriation authorizing the banker to appropriate the deposit amount to the loan amount at maturity or sooner. To prevent payment by mistake after providing the advance, the banker must record his lien in the fixed deposit register and on the actual receipt. If possible, avoid making an advance on a fixed deposit receipt in the name of a minor unless the guardian certifies that the loan will be used for the child's advantage. When funds are advanced against a fixed deposit receipt from another bank, the properly discharged FDR must be forwarded to the branch where the funds are placed in order to: Verify the depositor's specimen signature. to confirm that the fixed deposit receipt is free of any liens. to create a lien on the FDR and the FDR register in the branch's favor.A person may sometimes request money by pledging fixed deposit receipts held by other parties as security. In this situation, the FD holder must

properly discharge the fixed deposit receipt and declare in writing that the bank has the right to hold the deposit receipt as security and to transfer the deposit amount to the loan account upon maturity or upon any instalment repayment defaults.

Bills of Supply as Security for the Loan or Advance

Supply bills appear as a result of dealings with the government and public sector organizations. A party may have submitted a contract for execution and been granted the right to progressive payments based on completed work, for which he must produce invoices in line with the contract's terms and conditions. Similar to this, parties that accepted bids for the provision of products over a period of time are entitled to payments on the commodities they received and for which they submit invoices in line with the terms of the contract. Supply bills are the name given to this legislation.

Handling Supply Bills

The provider provides the documentation and delivers the products accompanied by a delivery challan. These items are examined by the proper government department authority, who approves them for payment on time and provides the provider with an inspection notice. Contracts require the acquisition of an engineer's certificate for the completed job. The bill is created by the supplier or contractor, depending on the circumstance, in order to be paid. Verifying the invoices and approving them for payment takes a long time in government offices. Therefore, the supplier or contractor presents these invoices to the relevant Government agency via the banker and asks the bank to advance against such bills together with the acceptable delivery challan, inspection note, or engineer's certifications. These invoices are not considered to be negotiable documents.

They have the status of debts and are allocated in the banker's favor for payment after being stamped as having been received by revenue.

The supplier or contractor should also provide the bank with a letter asking the relevant department to pay the banker directly.Despite the development's self-liquidating character, administrative and other governmental processes can make it difficult to actualize the advance for a while. It is essentially a clean advance, but as the charge is solely by means of assignment, the bank could not get the whole amount due to the potential of a counterclaim or the government's power to set it off. Sometimes the government may not approve the invoices for full payment due to the poor quality of the items, the contractor's poor performance, or delays in the completion of the task.

CONCLUSION

In conclusion, one key tenet of banking regulation that supports prudent and sustainable financial operations is legal control over a bank's use of money. Respecting regulatory restrictions is essential for protecting depositor interests, preserving financial stability, and preserving the credibility of the banking system. Regulating bodies may promote a sound and reliable financial system by building strong legal frameworks, ensuring compliance, and promoting moral behavior.

Regulatory agencies have the authority to apply penalties, fines, or other remedial actions when banks violate legal rules. To enforce accountability, prevent misbehavior, and make sure that banks work in the best interests of their stakeholders, these steps are crucial. One of the main goals of legislative supervision over the use of bank money is financial stability. The banking sector is more robust to economic shocks and crises thanks to sound financial practices and regulatory compliance.

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CHAPTER 22

A BRIEF STUDY ONPRECAUTIONS TO BE TAKEN BY THE BANKER

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ABSTRACT:

Banks play a critical role in the financial system, handling large sums of money and providing essential services to customers. As custodians of public funds, it is imperative for bankers to exercise caution and adhere to stringent precautions to safeguard the interests of depositors, prevent fraud, and maintain the stability of the banking sector. This paper examines the precautions that bankers must take in various aspects of their operations, including customer due diligence, risk management, data security, compliance with regulations, and ethical conduct. By analyzing case studies and relevant literature, this study sheds light on the significance of these precautions in mitigating risks and ensuring the integrity of banking operations.Precautions are essential for bankers to maintain the trust and confidence of customers and preserve the stability of the financial system. Implementing robust customer due diligence procedures helps in identifying and verifying the identity of customers, preventing money laundering, terrorist financing, and other financial crimes.

KEYWORDS:

Account, Asset, Banking Services, Business Loans, Checking Accounts, Commercial Banking, Credit Facilities.

INTRODUCTION

Only debtors with significant expertise in government business and government rules should be given advances on supply invoices. The banker should carefully review the contract between the supplier and the government agency to determine the amount of business, the duration of the supply, the agreed-upon prices, and other terms and circumstances[1], [2]. If the provider does not faithfully comply with the terms and conditions, the Government will not approve the invoices. A power of attorney from the supplier allowing him to accept the funds should be obtained by the banking. The identical should be registered with the relevant government agency. Along with the cash, the lender should also receive the inspection note or the engineer's certifications. Regarding the quality and quantity of the given items, the inspection report shouldn't include any critical statements. There are two different sorts of bills that the suppliers send[3], [4].

Interim bills for which the government pays between 85% and 82% of the total. Final invoices for the remaining 20–15% will only be paid after a thorough inspection of the products at the destination. Banks should prefer interim bills for forwarding and final bills exclusively for collection due to the delays associated with final bill settlement. Keep enough margin to pay the advance and interest from the incoming funds. In the event that the bills are not paid after a certain amount of time, the banker must retain the right to seek return of the advance. In other words, the banker just considers the bills as objects to be collected, and the loans are repaid.

A mortgage is placed on the property when it is submitted as security to the bank. There are six different types of mortgages, but as a banker, you would only deal with three of them. The Transfer of Property Act, 1882, including sections 58 to 99 and 102 to 104, deals with the

legislation of mortgages. We will now examine these clauses and determine how they apply to us as bankers engaged in the loan industry[5], [6].

Features of hypothecation that are crucial

1. Movable property is subject to charge hypothecation.
2. The borrower has both ownership and possession of the assets.
3. The agreement includes a provision requiring the borrower to transfer ownership of the items at the creditor's request. The charge is considered as a promise after ownership of the items has been obtained.

Additional critical facets of hypothecation

For the following reasons, banks should take measures while managing loans against hypothecation: Since the borrower is in possession of the assets, it is difficult for the creditor to exercise control over them.

The borrower may recoup its losses by selling the stock that was hypothecated. It is not impossible to raise two rounds of financing against the same stock.

For instance, the borrower may pledge the identical stocks to a different bank or later pledge the products to another creditor. Asset realization in the event of default may be challenging and expensive[7], [8].

Hypothecation: Exercise care

Due to the aforementioned challenges, banks must take certain care with regard to the products and assets they have hypothecated in order to safeguard their own interests.

1. Banks should make sure the borrower only has a hypothecation facility with one bank, not many. To reduce risk, the bank should make a written commitment to this effect.
2. Banks should post signs stating that the commodities in their show rooms and stores are hypothecated to them in the areas where they are exhibited or kept.
3. Banks should make sure that the borrower submits regular stock statements. Stock statements should include accurate and pertinent information about quantity, quality, and pricing. The accuracy of the information presented in the stock statements is regularly checked via inspections. The bank should respond appropriately right away by requesting more securities and raising the margin in the event of any discrepancy or decrease in the value of the stock.
4. The hypothecation charge must be recorded with the Registrar of Companies within 30 days of its inception if the borrower is a limited business. This is crucial; otherwise, the charge against the liquidator and/or any other creditor of the corporation would be null and invalid [9], [10].

Difference between a pledge and a hypothecation

An absolute universal lien on all commodities and securities received by the banker is granted under Section 171 of the Indian Contract Act, 1872. On all deposits, the banker has a general lien. If the deposit receipt is used as collateral to secure a loan or pay off a debt, a specific lien will be placed on the deposit receipt and will last until the debt is paid off or the obligation is satisfied.

Lien: Vital components

The whole amount owed by the borrower or debtor to the bank is secured by a general lien. General Lien of a Bank. This is applicable when a banker receives goods and securities for

the following circumstances: there is no agreement to the contrary and the debt is not time-barred when the banker receives goods and securities for a specific purpose. Another name for a banker's lien is an implicit commitment. A banker has the right to keep the commodities and/or securities charged in his favor and, if required, may even sell them. A banker who is the pledgee may sell the products or securities pledged to him.

In the following circumstances, a banker cannot utilize his right of lien:

1. If he does not acquire commodities and securities throughout the normal course of business:
2. In the instance of safe custody, when a banker takes a customer's valuables or assets for safe custody. The connection between the bank and the client in this instance is one of bailee and bailer. In this case, the banker serves as a trustee rather than a lender or creditor.
3. The banker cannot utilize his right of lien on items that were unintentionally left on the bank's property or that were overlooked.
4. The banker cannot use the right of lien when money is placed by a client with a request to transfer to another branch. This is true even if the person requesting the transfer of cash is also a borrower.
5. The banker is not permitted to use both the lien and setoff rights at the same time.

DISCUSSION

Assignment

On specific securities that have been offered to a creditor, assignment is a sort of charge. It is a right transfer for a debt or a piece of property. There are two parties involved; the one who transfers his rights is known as the assignor, and the recipient is known as the assignee. For instance, the borrower and the lender are both parties engaged when a bank lends money to a borrower against his book obligations. The assignor, often known as the borrower or debtor, transfers his entitlement to the money from his clients. The assignee is the banker to whom the rights are assigned.

Important components of the assignment

1. According to Section 130 of the Transfer of Property Act, an actionable claim may only be transferred by the execution of a written document signed by the transferor or by his properly authorized agent.
2. Any obligation that is not secured by a mortgage on immovable property, a hypothecation on moveable property, a pledge of movable property, or any beneficial interest in movable property that is not in the claimant's possession is considered actionable.
3. Any of the following goods, including book debts, life insurance policies, and money owed to government departments, may be assigned by the borrower to obtain a loan.
4. An assignment may be unconditional or serve as security.
5. An assignment might be contractual or equitable.

Regarding book debts, the assignor notifies his debtor in writing of the assignee's complete contact information, including name, address, phone number, and email, so that he may pay the assigned party directly until further instructions from his client. When it comes to a life insurance policy, the assignment is made via a particular deed of assignment or an endorsement on the back of the policy. In order for the life insurance company to register the

assignment in the company records and follow instructions, the assignor or assignee must provide notice of the assignment to the insurer.

Easy Mortgage

A simple mortgage, as defined by Section 58 of the Transfer of Property Act, is a deal in which the mortgagor, without giving up ownership of the mortgaged property, commits to personally paying the debt and acknowledges, explicitly or implicitly, that should he fail to do so, the mortgagee will be entitled to have the property sold by court order, with the proceeds going toward the debt.

Characteristics of a Basic Mortgage

Without the permission of the court, the mortgagee is not permitted to sell the property. The mortgagor is still held personally accountable for any deficiency in the amount recovered even after the sale of the mortgaged property. The rent and output from the mortgaged property are not subject to any payments to the mortgagee. The property is not turned over to the mortgagee. The principal amount secured must be registered if it is $100 or more.

Loan via a conditional sale

A mortgage by way of a conditional sale of the property is a transaction wherein the mortgagor ostensibly sells the mortgaged property on the condition that: on default of payment of the mortgage money on a certain date, the sale shall become absolute; on such payment being made, the sale shall become void; or on such payment being made, the buyer shall transfer the property to the seller. This is in accordance with Section 58 of the Transfer of Property Act. The condition must be included in the document that affects or pretends to affect the sale for such a transaction to qualify as a mortgage or conditional sale.

Important characteristics of conditional sale mortgage

The transaction is fictitious and untrue. The apparent sale will become absolute if the money is not returned by the specified period upon the mortgagor's application to the court and receipt of a favorable ruling in his favor. In such a situation, the mortgagor forfeits his ability to redeem his property. The mortgagee may file a lawsuit to force a foreclosure but not a property sale. Loss of the mortgagor's ability to reclaim the mortgaged property is referred to as foreclosure. Bankers do not like this sort of mortgage since there is no personal commitment for debt service. If the mortgaged property turns out to be inadequate, the mortgagee cannot turn to the mortgagor's other properties.

Mortgage for Usufruct

The Transfer of Property Act's Section 58 states:

"A Usufructuary Mortgage is a transaction in which the mortgagor delivers possession expressly or by implication and binds himself to deliver possession of the mortgaged property to the mortgagee and authorizes the mortgagee to retain such possession until payment of the mortgage money and to receive the rents and profits accruing from the property or any part of such rents and profits and to appropriate the same.

Important characteristics of a usufructuary mortgage

The mortgaged property is delivered to the mortgagee. In this context, possession refers to legal possession rather than actual physical possession. For instance, the mortgagor may continue to have physical possession as the mortgagee's lessee or the mortgagor may be the property's caretaker, instructing the renters to pay the mortgagee's rent. However, the deed

must include a provision allowing the mortgagee to keep ownership of the property and allowing it to be delivered to him. Rents and profits generated by the property must be paid to the mortgagee. Such rentals and profits, or a portion of them, may be used to pay the mortgage, cover interest, or a combination of the two. There is no personal accountability for the mortgagor unless there is a personal covenant requiring repayment of the mortgage funds. As a result, neither the mortgagee nor the mortgagor may be sued in order to collect on the mortgage obligation or to force the sale or foreclosure of the mortgaged property. The mortgagee keeps ownership of the property until the loan is paid off, and there is no time frame given. The mortgagee's sole option is to keep control of the propertya portion of the mortgaged property's rentals or earnings. The mortgagee will become the sole owner of the property if the mortgagor doesn't file for redemption within thirty years.This kind of mortgage is not preferred by banks for the following reasons: There isn't a promise from anybody to pay back the loan. It will take a very long time to recover money via this approach since the mortgaged money can only be recovered by the appropriation of rents and/or earnings.

American Mortgage

An "English Mortgage" is a transaction in which the mortgagor commits to repaying the mortgage money by a specific date and transfers the mortgaged property absolutely to the mortgagee, subject to the condition that he will retransfer it to the mortgagor upon payment of the mortgage money as agreed, according to Section 58 of the Transfer of Property Act.

Key characteristics of English mortgage

In spite of the property's absolute transfer to the mortgagee, it includes a personal commitment to pay on a certain date. The property has been completely transferred to the mortgagee. However, such an absolute transfer is constrained by the need that the property be returned to the mortgagor in the case of debt repayment.

The mortgagee has the right to sue the mortgagor in order to collect the debt and to get a sale decree.According to Section 58 of the Transfer of Property Act, "Where a person delivers to a creditor or his agent documents of title to immoveable property, with intent to create a security thereon, the transaction is called a mortgage by deposit of title deeds," adding that "the State Government concerned may, by notification in the official Gazette, specify in this behalf, any other town."

Records of Title

Title papers or title deeds, in the event of a mortgage secured by the deposit of title deeds, must be records attesting to the mortgagor's ownership of the mortgaged property. In other words, if a person has a right to quiet possession and enjoyment of the immovable property by virtue of a document or instrument, then such document or instrument is known as the title deed. The learned explained it in the matter of Syndicate Bank vs. Modern Tile and City Works. Judges define title papers or deeds as the legal document that demonstrates a person's ownership interest in a specific piece of land.

Key characteristics of an equi mortgage

Only the towns alerted by the State Government may apply for such a mortgage. The geographical limitation, however, only applies to the location of title deed delivery, not the state of the mortgaged property. Three elements are required to establish this mortgage: a debt, the deposit of title deeds, and the desire that the title documents serve as security for the loan.

Unusual mortgage

A mortgage that is not a simple mortgage, a mortgage by conditional sale, a usufructuary mortgage, an English mortgage, or a mortgage by deposit of title documents within the definition of this is referred to as an "Anomalous Mortgage" in accordance with Section 58 of the Transfer of Property Act.

Important characteristics

By including a condition that grants the mortgagee the right to sell, this flaw may be fixed. In such situation, the mortgage loses the benefit of being straightforward and inexpensive since the mortgage deed must be properly stamped and registered. The claim of the beneficiary under trust will take precedence over any equi mortgage in cases where the borrower is holding the title documents in his position as a trustee and an equi mortgage is executed on them. Therefore, before accepting the title documents as a security, the banker must thoroughly examine them. A later legal mortgage in favor of a different party may be established by the borrower. If the equi mortgagee is the owner of the original title documents, however, this option is not available. There is no distinction between the two forms of mortgages in India. A mortgage secured by the deposit of title documents has priority over any later mortgages secured by the same property, as stated in Section 48 of the Registration Act of 1908. Similar to this, any later sale without notice does not invalidate the title of the equi mortgagee. However, the equi mortgage should only be approved after getting the original title documents in order to minimize any danger of this kind.

England's legal system differs somewhat from ours. Legal mortgage, albeit being executed later, triumphs over equi mortgage in this case. According to the law, when there is a conflict between law and equity, the law wins. The preceding in time has precedence when it comes to stocks. The pledger retains ownership of the property and just a minimal stake is needed. In the event that the pledger defaults, the Pawnee has "special property" in the things that have been pledged and may sell those commodities after providing the pledger due notice, of course. The Pawnee does not have the power to foreclose. Only by selling the property can he pay off his debt. The mortgagee now has legal possession of the property, subject to the mortgagor's right to redeem it, of course. The mortgagee typically waits for a court order before taking action against the mortgaged property, however in certain circumstances, the mortgagee may be able to foreclose on the property.

Mortgage Priorities

In Section 48 of the Transfer of Property Act, the Indian Law of Priorities is described. The rule lays out the general rule regarding priority of rights created by transfer by a person at different times in or over the same immovable property and stipulates that, as between such rights, each later created right is subject to the rights previously created. It is based on the maxim "he has a better title who was first in point of time." We may also see how the law of priority applies to various mortgage-creating mechanisms.

A registered document becomes effective at the moment of execution, not the day of registration, according to Section 47 of the Registration Act of 1908. A document that was executed sooner even if it was registered later has precedence over papers that were executed later.

Registered and unregistered instruments

Let's now discuss the exceptions to the general rule that precedence is decided by order of time, which either have been established by legislation or derive from the antiquated Hindu

Law norm that demanded delivery of possession in the event of a land security. The Indian system, which is based on those broad notions of justice and fairness that Indian courts are required to uphold in the absence of any explicit legislation and which are mostly derived from English Law, also recognizes certain exceptions.

The first exemption may be found in Section 50 of the Registration Act, which, in certain cases, gives a registered mortgage precedence over an unregistered mortgage. It should be emphasized, nevertheless, that future registered mortgages need not be registered, therefore a previous mortgage established by the deposit of title documents is unaffected. Section 48 of the Indian Registration Act makes provision for this.

Mortgage Limitation Period

In accordance with Article 62 of the Indian Limitation Act of 1963, there is a time restriction for bringing a lawsuit to collect a mortgaged debt and selling a mortgaged property in the event that the mortgaged obligation is not paid. In the event that the mortgaged property is foreclosed, a limitation period is provided under Article 63 of the aforementioned Act. A lawsuit for the sale of a mortgaged property must be filed TWELVE YEARS after the mortgage obligation becomes due. After the debt secured by the mortgage becomes due, there are THIRTY YEARS in which to file a lawsuit for foreclosure.

Some Important Elements of Mortgage Enforcement

We will now discover some crucial details about mortgage enforcement. You should be aware that a banker uses one of the aforementioned mortgages to secure the funds provided. A banker often obtains one of the following mortgages:

1. Mortgage via title deed deposit
2. Simple mortgage, and sometimes
3. Mortgage in English.

All of these mortgages may be enforced by bringing a lawsuit to sell the mortgaged properties. The Code of Civil Procedure, 1908, outlines the process for bringing a lawsuit for a sale. A action for the sale of a mortgaged property must be filed in the court whose jurisdiction the mortgaged property is located, according to Section 16 of the Civil Procedure. In accordance with Order 34 of the Code, certain requirements must be met when bringing a lawsuit to sell mortgaged property. When an action for sale is filed, the court issues a preliminary decree after hearing from the parties. The preliminary judgment gives the mortgagor a deadline to pay the mortgage obligation, and if he doesn't, the court will issue a final decree ordering the sale of the properties that are subject to the mortgage.

Following the adoption of the final decree, the mortgagee obtains the sale of the mortgaged property with the assistance of the Court in order to carry out the mortgage decree.

Registrars Are Free

The Indian Companies Act, 1956's Section 125 and other pertinent sections cover the registration of charges.The following charges are covered by it: charges for the purpose of securing debentures; charges on uncalled capital of the company; charges on any immovable property, wherever situated, or any interest therein; charges on any book debts of a company; charges on any movable property of a company; floating charges on the undertaking or any property of the company, including stock-in-trade; charges on calls made but not paid; charges on a ship or any ship-related property. Fixed charges and floating charges are the two types of registered charges under the Companies Act. On a certain property or properties

owned by the corporation, a fixed fee is established. This charge allows the secured creditor the right to sell the property and claim the sale profits as payment for the debt owed by the corporation. A broad, non-specific charge is a floating charge. The charge floats over the firm's current and future assets, and it does not prevent the corporation from assigning the assets subject to the charge to other parties as a sale or security. As a result, a floating charge is an equal charge.

Process for Charge Registration

According to Section 125 and Subsection S, the Registrar of Companies must receive an instrument constituting the charge and all the details of the charge within thirty days of the charge's establishment. The Registrar of Companies may add extra thirty days to the thirty-day deadline. A copy of each document demonstrating any charge or change of charge has to be submitted with the registrar suitably verified and attested.

The firm shall file the specified information for creation, modification, or satisfaction of the charge in the Form 8, Form 13, or Form 17. Charges registration must be completed electronically. Banks and other charge holders must use the electronic filing technique to provide the specifics of charges made in their favor.

CONCLUSION

Bankers may safeguard their institution's image, maintain depositor trust, and contribute to the general resilience and stability of the financial system by following certain safety measures. To sustain the greatest levels of honesty, openness, and caution in the banking industry, precautions are not only a legal need but also an ethical duty. Bankers may strengthen the reputation of their organizations and promote the banking industry's sustainable development by carefully putting these safeguards into practice. The foundation of a banker's responsibilities is ethical behavior. To maintain the integrity of the banking industry and foster confidence among clients and stakeholders, one must follow ethical procedures and stay clear of conflicts of interest. Furthermore, stress testing and scenario analysis help determine how resilient a bank is to challenging economic circumstances and future shocks. Banks may detect weaknesses and take appropriate remedial action by regularly conducting stress tests.

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CHAPTER 23

SIGNIFICANCE OF EXECUTING LOAN DOCUMENTATION

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ABSTRACT:

Executing loan documentation is a crucial step in the lending process, wherein the formal agreements and contracts between borrowers and lenders are finalized. This paper examines the significance of loan documentation, the essential elements of loan agreements, and the legal considerations involved in the execution process. By analyzing case studies and relevant literature, this study sheds light on the importance of accurate and comprehensive loan documentation in mitigating risks, protecting the interests of both parties, and ensuring a smooth and transparent lending process. The findings provide valuable insights into the complexities of loan documentation execution and its impact on the overall financial landscape.Executing loan documentation is a critical aspect of the lending process that demands precision, diligence, and attention to detail. Loan agreements, promissory notes, and security documents form the foundation of the borrower-lender relationship, outlining the terms, conditions, and obligations of each party.

KEYWORDS:

Agreement, Borrower, Collateral, Contract, Covenants, Disbursement, Due Diligence.

INTRODUCTION

The possession of appropriate legal papers is one of the crucial prerequisites for the lending banker. Documentation is the process of executing necessary papers in the correct format and in accordance with the law. Recovery of advances and loans is made easier with proper paperwork. No alterations are often allowed from the bank's conventional formats for promissory notes and other papers[1], [2]. These papers must be signed by the borrowers in order for the bank to accept them. Additionally, banks often do not provide copies of these records to borrowers, which may sometimes be problematic if these documents are the focus of a legal dispute. When completing the documentation as instructed by the Bank, the following considerations must be made[3], [4].

Loan Agreements

In a nutshell, the following are the safety measures that should be observed by both the borrower and the lender throughout the preparation, execution, and registration of loan papers, etc. The person signing the loan paperwork must have the legal ability to enter into a contract, or be competent to do so. As a result, individuals who are minors, bankrupt, insane, etc., are not able to sign papers. The appropriate stamps, such as sticky or embossed, should be included on the loan paperwork. Given the legislation of the State in which the papers are signed, additional stamp duty should be appropriate[5], [6]. If non-judicial stamp papers are used, they must show the date before they are executed and cannot be older than six months. The agreement's text may be written directly on the Stamp papers, or plain papers can also be used, if necessary, in addition to the Stamp papers. The loan documentation should not include any blank columns. The borrower must execute the papers fully and in the same order as his signatures are on file with the bank. Cuttings and overwriting’s must be avoided, and if they are ever necessary, they must be fully attested by the borrowers[7], [8].

The wording used in the loan paperwork is sometimes difficult for the borrower to grasp. In this situation, a second letter in the borrower's native tongue should be obtained from him attesting to the fact that he has been fully informed of the loan papers' contents, including their terms and conditions. A second person has to attest to the letter. When a borrower who cannot read or write signs loan documents with his thumb impression, the bank representative who witnessed the signing of the documents must certify on a separate piece of paper that the borrower was fully informed of the contents in a language he can understand and speak. This certificate has to have independent witnesses attested to it. A similar certificate should be acquired in the event of a blind individual from a lawyer or notary public in whose presence the borrower signs papers. After thoroughly validating the borrowers' identities in the event that they live in separate locations, the loan paperwork should be completed via the bank branches located at those locations.

Regarding stamp duty, it should be applied in accordance with the state that charges the greatest amount. The date and location of execution must be written by the borrower(s) following their signatures on all papers. A juvenile who has been admitted to the advantages of partnership in a partnership business should not be permitted to sign any loan documents[9], [10]. This is true because a creditor, such as a lending banks, cannot take legal action directly against a child. However, because the firm's main partners have signed loan contracts, binding one another by their act of execution, the minor's participation in the company may be pursued. The bank should proceed to get an undertaking from the minor declaring that he stands fully accountable for the bank's debts to the partnership firm once the minor reaches majority and chooses to stay as a partner in the company. On occasion, the person holding the power of attorney will sign loan paperwork on behalf of a trading company, partnership firm, Hindu undivided family, business, person, etc.

In this situation, notification to the principle that the attorney has signed the papers on their behalf should be provided. Along with the primary loan documentation, a certified copy of the Power of Attorney should be retained. Additionally, the principal's response to the notification in the form of a letter or confirmation should be kept. The borrowers are required to get a copy of the sanction and make sure that only the paperwork for the facilities that were approved in their favor is done. Prior to execution, all paperwork must be filled out entirely. If this is agreed upon and specified as a condition of sanction, the guarantee form should be completed. All executed papers must be acquired in duplicate and maintained on file for future use.

Document Execution by Different Types of Borrowers

Personal/Collaborative Borrowers

If there is just one borrower, he must personally sign all paperwork.

However, if more than one borrower needs to use the facility as a joint holder, it is important to make sure that all parties involved sign the application and participate in the execution of the security papers.

Regarding the withdrawal or delivery of securities from such accounts, instructions should be acquired with the signatures of each joint account holder.

Signature by Partnership Firm on Document

A partnership doing banking business should have no more than 10 partners, and a partnership conducting any other company with the intention of producing profits should have no more than 20 partners. Every partner has implicit power to bind the business by

borrowing money, putting up security against its movable assets, and signing contracts as a result, according to the Indian Partnership Act, 1932. However, it is essential that the partnership deed be received, carefully examined, and studied while processing any advance proposition and when papers are being completed. If there is any question about a partner's ability to borrow money and then sign papers on its behalf under the terms of the partnership agreement, a consent signed by each partner in favor of the partner or partners must be acquired.

As Guarantor, a Partnership Firm

When a partnership business guarantees another party's debt, the guarantee agreements must be signed by all of the partners or by a partner who has received explicit permission from the other partners to execute the guarantee arrangement. The partner of a firm has no implicit power to write a guarantee, counter guarantee, or indemnity bond on the firm's behalf if there is no provision in the original partnership agreement enabling this, or if giving guarantees is not one of the company's core business activities. In these situations, the surviving partners must sign a general power of attorney in the managing partner's favor for the specified goal.

As a Mortgagor, a Partnership Firm

When a mortgage of the firm's properties is involved, either all partners must participate in the mortgage or the partner signing the document must have a specific letter of authority from the other partners. No partner has implied authority to bind the firm by a transaction involving immovable property.

Individual Partnership Guarantee

According to Section 49 of the Indian Partnership Act, where there are joint debts owed by the firm and separate debts owed by any partner, the firm's assets must be used first to pay those debts. If there is any surplus, the share of each partner must be used first to pay his separate debts. If there is any surplus, the partner's personal assets must then be used to pay the debts of second creditors. The personal guarantee of each individual partner for the whole amount of loans to the partnership concern should be secured in order to guarantee that the Bank would rank as first creditor even with regard to the assets of the partner in the event of the firm's or its partners' bankruptcy.

Restructuring of the Partnership Firm

Advance on Working Capital

A letter of continuity should be obtained from all the incoming and outgoing partners as a temporary measure before allowing operations in the existing accounts whenever the partnership firm is reconstituted due to a partner's death, retirement, expulsion/admission, or other event. This is true while limits are being approved for the reconstituted firm, new documents are being obtained, and outstanding balances are being transferred to the new account. Before activities are permitted on the accounts of the reconstructed business, the guarantor must provide a letter of confirmation if loans to the dissolved firm are backed by a third-party guarantee as collateral security. even in situations when obtaining an ongoing guarantee with sui changes is advisable. The completion of these requirements must be accomplished within two months.

Long-Term Loan

There is no need to get a new set of security papers for any existing term loans. There should be a stamped additional agreement. When acquiring new documentation for the working

capital restrictions provided to the rebuilt business, it should be signed by the remaining partners, new partners, and any guarantors.

Minor working for a partnership

According to Section 30 of the Indian Partnership Act, a minor who is admitted to the advantages of a partnership is responsible for their share of the firm's actions but is not personally responsible. If an adult has been admitted to the benefits of partnership, he or she may, within six months of reaching the age of majority or learning that he or she has been admitted to the partnership, notify the public of his or her decision to become a partner or not. If the adult fails to do so, he or she will automatically become a partner in the firm at the end of the six-month period, and in that case, he or she will be personally liable. If the ex-minor decides not to become a partner, his share is not responsible for any actions taken by the company after the date of the notification mentioned above.Therefore, it is crucial to note the day when the underage companion will turn 18 in your diary. After the junior partner reaches majority, the following new letters must be received to bind him to the firm's obligations. Partnership Letter; Partner's Individual Guarantee; The ex-minor shall sign the current partnership letter in confirmation of prior transactions.

Document signed by Joint Hindu Family

Making contributions to a Joint Hindu Family organization is fraught with legal issues. For the usual purposes of a Joint Hindu Family letter signed by all the adult coparceners, the Karta of a Joint Hindu Family has an implicit legal power to borrow money, execute papers, and offer security. Anywhere that the conditions of the aforementioned letter allow operation on the account by coparceners other than the Karta. Branch Manager shall make an effort to periodically get Karta confirmation of the transactions and record it at the branch. Every major document, including Demand Promissory Notes, Cash Credit Agreements, and other similar contracts, must often be signed by the Karta on behalf of the family. The Branch Manager may, however, with the prior approval of the controlling authority, allow the execution of documents by any other member of the family who has/have been specifically authorized to sign on behalf of the family in terms of the relevant Joint Hindu Family letter, in very exceptional circumstances, such as when the Karta is physically disabled or is likely to be absent from the station for a long period.

The Branch Manager will first ensure that the Joint Hindu Family letter is on file and properly signed by all of the adult co-signers.

The Joint Hindu Family letter specifies communication to the Bank of both the coming of age of its minor members and any changes to the composition of the company. When a minor member reaches majority, a new letter should be sent noting the day they became of age. He should be requested to sign the current letter from the Joint Hindu Family as well. When working with joint Hindu families, the bank must make a distinction between a new company started by one or more of the adult members either alone or in an ordinary partnership and an ancestral enterprise run by the family's Karta on its behalf.

Even though the latter is sometimes incorrectly referred to as the family company, the family may not be held accountable for its obligations. In the event that the firm's activity turns out to be beyond the scope of the family's ancestry business, the Joint Hindu Family letter binds the signatories personally. However, in this situation, it must be understood that younger family members may be exempt from accountability for non-ancestral business. This must not be forgotten when accommodations are made, especially if the Karta is the only adult in the family.

DISCUSSION

Execution of document by Limited Liability Company

Copies of the company's memorandum and articles of association should be acquired, and the certificate of formation must be registered with the Bank, before a limited liability company is given an advance. A comparable registration must also be made for its certificate to start doing business, unless it is a private limited company. The Branch Manager must determine from a review of the memorandum of association that the stated need for the advance is consistent with the purpose for which the company was formed, that the advance is within the company's borrowing capacity, and typically that there are no prior charges against any of the assets offered as security. He must also take care to ensure that the individuals who manage the account and sign the security papers have the right authorization. The ability of a corporation to borrow money is often expressly specified in its articles of association, however it is not generally capped at a certain dollar amount. A trading firm may typically be assumed to have the authorization to borrow money for the purposes of its regular business when no mention of borrowings is made, but no advance should be approved in such cases without first consulting the governing authorities.

According to Section 292 of the Companies Act, the Board of Directors of the business may use its borrowing authority by resolutions adopted at a meeting rather than through circulation. Therefore, such resolutions must be used to justify any advances made to a corporation. According to Section 130 of the Companies Act, a search should always be conducted at the office of the Registrar of Companies before making any kind of advance to a limited company to make sure there are no outstanding liens on the security being supplied. If a business has issued debentures, the Branch Manager must confirm from the debenture trust deed that the assets of the company that are being proposed to be charged to the Bank are not already mortgaged to the holders of the debenture trust deed. If there is any uncertainty, the debenture holders or their trustees must provide a document of release in accordance with the debenture trust agreement. The Branch Manager must take care to ensure that the Bank's interests are safeguarded when debentures are being issued by a firm whose stocks, etc. are already pledged or hypothecated to the Bank.

Filing of a charge

A resolution should be in favor of the company's execution of papers. The individuals authorized by the Board resolutions to sign these papers on the company's behalf should do so. Any document that has to be approved in advance by a resolution of the Board of Directors, the Committee of the Board, or if necessary, under the conditions of the Articles of Association must have the common seal. The affixation of the seal must be done in accordance with the Articles of Association, which normally call for the Secretary and two other directors to attest to it.

Cooperative Societies signing the document

A society's byelaws specify the organization's goals, scope of activity, and restrictions on its authority. In compliance with the guidelines of the Co-operative Societies Act, it outlines the essential terms under which the Society has been registered. It is crucial that the creditors who work with the society be fully aware of these bylaws' provisions, which may, however, be changed by a resolution of the general body with the Registrar of Co-operative Societies' permission. The Society's Bye-laws outline the steps in detail. The maximum credit limit is set in line with the provisions of the society's bylaws, either with or without the Registrar of Co-operative Societies' permission.

The account opening paperwork should be preserved alongside a certified true copy of the most recent bye-laws. It is necessary to receive copies of the audited financial statements and the auditor's report since the society account is subject to a yearly audit.Such entities lack contractual authority if they are not corporations since they lack a legal identity. As long as the members signing the checks do so in their representative role and not in their personal capacity, they cannot be utilized and the individual members of such institutions are not accountable for any credit facilities.

Without the regulating authorities' prior consent, no restriction should be imposed. In such a case, the bye-laws of the aforementioned institutions should be examined in order to assess their borrowing capabilities, the reason for which a loan may be obtained, the management committee's authority to seize institutional assets, etc. In this context, a sui resolution needs to be adopted.

Persons with disabilities, including those lacking fingers, thumbs, or toes, may make simple markings or dots on papers in place of a signature. Such annotations are always made in the branch manager's or division manager's presence on papers. As attesting witnesses, the Bank obtains the signatures of unaffiliated witnesses. If no such witnesses are available, the Branch Manager, Division Manager, or any other employee should vouch for the impression themselves. It will then be regarded as having been adequately accomplished.

Documents signed by blind people

If a blind individual can sign consistently and evenly, a signature may be acquired. Thumb impressions should be taken in cases when the individual cannot sign consistently. You may also get a second letter that is signed by two people who saw the blind individual sign the paperwork.

Document execution by Illiterate Borrowers

In the event of illiterate borrowers, the illiterate borrower's left hand thumb imprint must be attached in the presence of a bank representative, and the words "Left/Right hand thumb impression of Shri/Smt Should be written just the thumb impression" must also be written. For illiterate borrowers, a supplemental statement from impartial witnesses attesting to the fact that the papers' contents were conveyed to the borrower and that the borrower voluntarily signed the documents after fully comprehending their ramifications should be obtained. When a document is signed in a language other than English, the signature should only be translated into English at the very end without being attested.

Document execution by Pardanashin Women

The legislation mandates more caution be used while interacting with pardanashin females. If loans are given to or guarantees are obtained from pardanashin women, the bank must have proof that the women signed the documents voluntarily, without coercion or undue influence, and after fully understanding the nature of the transactions.

The Bank must prove that the papers were explained to the executants in their mother language and that they are aware of the repercussions if the documents are not in their mother tongue.

Anywhere that pardanashin women sign papers, endorsements to the above effect should be put on the documents with the signature of an impartial witness after he has explained to the ladies the ramifications of the contents of the document. It is insufficient to just record this information in the internal Document Execution Register.

Bank Financial Analysis

Analyzing finances

By examining the financial results of the firm over time, it is possible to evaluate the success of a company or commercial activity. The analyst might evaluate the outcomes with the use of a comparative analysis of the financial statements. P & L account and balance sheet are two crucial financial statements that are often utilized for financial analysis.Different groups of people, including private investors, bankers, financial institutions, credit analysts, credit rating organizations, and research and management students, evaluate and understand the financial statements.

The profit and loss account shows the financial outcomes of an enterprise's operations through time, while the balance sheet shows the financial status of the firm as of the conclusion of a certain period. Comparative review of these statements over a number of years, for instance from 1 April 2012 to 31 March 2013, would provide a clearer picture of the business unit's financial performance. Financial analysis and financial statement interpretation are increasingly crucial instruments for making decisions.

Benefits and restrictions of financial statement analysis:

P&L statements and balance sheets, which show the financial outcomes, are easily accessible. These financial statements were created in accordance with the regulatory and legal framework, accounting standards, and other guidelines. The accessible information and data on these statements may be simply sorted and evaluated based on the analyst's needs. For ratio analysis, trend analysis, and other purposes, the financial statements may be employed. The following restrictions apply when utilizing financial statements: Since balance sheet statistics are only accessible as of a certain date, they may not accurately depict the financial situation for more than a year. Since the balance sheet and profit and loss account are both numerical statements, they do not provide a comprehensive picture of the functioning of the company or business unit. It depends on the business unit how assets are valued, depreciation is written off, charges are amortized, huge expenses are incurred, etc. Therefore, comparing these ratios and statistics would not provide the expected findings and is in need of more thorough research. Additionally, these financial documents show how the commercial operation performed. Therefore, the predictions of the future trend will be necessary for any meaningful interpretation of these remarks.

Evaluation of the Balance Sheet

The most significant yearly financial statement is the balance sheet. It lists a company's assets and liabilities as of a certain date. The liabilities show what the firm owes and its payables, while the assets show what the company possesses and its receivables.

Assets

Please note that the majority of these components show as part of the application of funds or deployment of funds on the vertical form of the balance sheet. Assets are divided into: Current Assets, Fixed Assets, and Intangible Assets.

Existing Assets

Assets that will be converted into cash in the near future are known as current assets. 'Circulating assets' is another name for these resources.Examples of current assets include cash and bank balances, market securities, inventory, bills receivable, and debtors. Current

assets are defined as debts and invoices receivable that have been outstanding for less than 12 months.

Current assets have two significant parts: inventories and receivables. As previously mentioned, effort should be made to separate these assets into current and noncurrent assets while evaluating the financial statements. An in-depth analysis of the inventory and receivables would provide superior findings about the management's effectiveness in overseeing these two assets and amply demonstrate the company concern's proficiency in managing liquidity.

Static Assets

Fixed assets are the next crucial category of assets. Typically, the fixed assets include land, buildings, plants, machinery, fixtures, and other items. These resources are utilized by the firm to run its operations and are not soon to be put up for sale. It is important to check both the book value and the market value when examining fixed assets. It is also advisable to analyze the depreciation and amortization rules.

For instance, depending on the kind of asset, different fixed assets are valued differently. When valuing property, consideration should be given to the ownership type, such as freehold or leasehold, the location of the land, etc. When valuing buildings, consideration should be given to the age, location, and other relevant variables.

Intellectual Property

A lot of changes are occurring in the examination of financial statements along with the shifting patterns of integration in the global corporate environment. Intangible assets are accorded importance, and financial analysis heavily relies on their value. Intangible assets are often defined as the following: goodwill, copy right, patents, trademarks, designs, brand value, etc. These are referred to as fictional assets as well.

These assets don't reflect any physical assets like real estate, buildings, stocks, or raw resources; rather, they represent the company's reputation in a sense. In addition to the aforementioned, additional things that fall under the category of intangible assets include preliminary costs and the negative balance in the profit and loss account, which represents either deferred revenue expenditures or real losses that will be written down over time.

Liabilities

Obligations are primarily sources of funding and may be roughly categorized as follows: Net worth - Owned money, share capital, and free reserves Current obligations, as well as term liabilities Current liabilities are debts that must be repaid within a year.

Bank loans:

Business units use bank financing in the form of cash credit or overdrafts. An analyst should be curious to learn more about the specifics of these bank borrowings, such as the amounts borrowed under various categories, the security that was pledged or hypothecated to the banks, and other information.

Business Creditors

The evaluation of trade creditors is essential in figuring out how the firm will handle its liquidity. The evaluation should go into great depth about the types of invoices, the terms of the credit, and other circumstances. A thorough analysis is required if the bills are written by creditors other than trade creditors.

Long-Term Obligations

Even though term obligations are long-term in nature, they must be categorized as short-term and handled similarly to other current liabilities for the repayment terms of term loans that are repayable, the maturity of debentures, and other term liabilities that are due for payment within a year. Term loans are divided into short-term, medium-term, and long-term loans. In addition to the aforementioned items, provision for taxes, interest on term loans and debentures as well as other charges, unpaid costs, etc. are classed as other current liabilities.

When evaluating, caution should be taken to ensure that all of the terms and conditions of the loans and term financing that the firm has accessed have been satisfied. It is important to thoroughly check the facts, including the interest rate, payback schedule, and security provided, among others.

Gross Value

Paid-up share capital, retained earnings kept as reserves and surpluses, and the credit balance in the profit and loss account make up "net worth." One of the key elements of "net worth" is the dependence of the firm's long-term solvency on its robust capital base. The financial analyst should investigate if long-term obligations or owned money are used to finance the company concern's demands.

Off-Balance sheet items or contingent liabilities

Unlike other items, which are classed as on balance sheet items, contingent liabilities are classified as Off-balance sheet items. Contingent liabilities are those obligations that do not exist as of the date of the balance sheet but may occur in the future. While contingent liabilities are future things, on-balance-sheet items are past entities that are included on the balance sheet. The liquidity situation of the firm would be affected if these things were due and payable, thus it is important to carefully evaluate the terms and circumstances of such contingent liabilities, including any potential payback amount and timeline.

Other crucial characteristics

The balance sheet and profit and loss statement provide a company's financial situation in figures. In addition to this, the auditors' report, any appropriate explanatory schedules, and comments on accounts provide helpful information. Additionally, valuable data is shown by the funds flow and cash flow statements, which provide a mathematical analysis of changes in the structure of two successive balance sheets. The relevant Accounting Standards were used to compile these financial statements. The forms of the balance sheet and P&L account for banking firms are set out by the Banking Regulation Act. Financial statements should be produced in accordance with the legislative framework and accounting standards as they are currently in effect. Other corporations must abide by the Companies Act of 1956, as modified from time to time.

The updated Schedule VI, which was released by the Ministry of Corporate Affairs, establishes a new structure for the production and presentation of financial statements by Indian firms for fiscal years beginning on or after April 1, 2011. A few key conceptual modifications are included in the updated Schedule VI, including the difference between current and non-current obligations and the priority given to the requirements of the accounting standards.

The amended Schedule brings corporate disclosures closer to international norms even if it does not completely follow the international standard on disclosures in financial statements.

CONCLUSION

In conclusion, a crucial phase in the lending process that demands precise attention to detail and respect to regulatory criteria is the execution of loan documents. Both parties' interests are protected by accurate and thorough loan paperwork, which also helps to maintain the stability and public confidence in the financial system.

Lenders and borrowers may create a strong and mutually advantageous borrower-lender relationship that encourages responsible lending practices and promotes economic development by doing due diligence, guaranteeing open communication, and adhering to legal requirements. Additionally, it is crucial to execute loan documents in accordance with all relevant rules and regulations. To guarantee the legitimacy and enforceability of the loan agreements, both lenders and borrowers must abide by regional and federal regulations controlling lending practices, interest rates, and consumer protection.

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CHAPTER 24

TECHNIQUES USED IN ANALYSIS OF FINANCIAL STATEMENTS

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ABSTRACT:

The analysis of financial statements is a fundamental tool used by investors, creditors, and management to assess the financial health and performance of a company. This paper examines the various techniques employed in the analysis of financial statements, including ratio analysis, common size analysis, trend analysis, and cash flow analysis. By analyzing case studies and relevant literature, this study sheds light on the significance of these techniques in providing valuable insights into a company's liquidity, profitability, solvency, and efficiency. The findings highlight the importance of accurate and comprehensive financial analysis in making informed decisions and improving the overall financial management of businesses.Ratio analysis provides valuable insights into a company's liquidity, profitability, and efficiency by comparing key financial metrics. Common size analysis helps in understanding the composition of various financial statement items relative to total revenue or assets, allowing for better trend identification and comparison across different companies or periods.

KEYWORDS:

Accounts Payable, Accounts Receivable, Assets, Balance Sheet, Cash Flow, Cost.

INTRODUCTION

The overall funding sources are divided into long term and short-term categories. The total usage is similarly divided into Long termand Short term categories[1], [2]. If the short-term sources exceed the short uses, it suggests that working capital money have been diverted and needs to be investigated further. It may sometimes be advantageous to do anything, for example, in the case of businesses with a very high current ratio, it may be preferable to utilize the idle cash to build out more capacity. The overarching rule is that this deviation shouldn't bring the company's liquidity situation to an unacceptable level[3], [4].

Funds Flow Analysis

The components that must show a trend are displayed horizontally and are denoted with the percentage increase from the previous year's figure. This is often used to observe trends in sales, operating profit, PBT, PAT, and other P&L account metrics. Similar to this, the balance sheets' horizontal arrangement reveals the patterns of individual items' increases or decreases. Common size statements are created to explain the proportion connection between several things and a single object[5], [6].

Trend Evaluation

An indicator of the trend in operational efficiency may be seen, for instance, when the consumption of raw materials is stated as a percentage of sales over several years. Since the figures are brought to a common base, i.e., percent, the usage of common size statements may make comparisons of company organizations of various sizes much more understandable. An analyst may evaluate the operational and finance characteristics of two businesses of various sizes operating in the same sector using this statement.

Ratio Evaluation

The most popular tool for financial statement analysis is this one.

Profitability Ratios

By dividing operating profit and net profit, respectively, by net sales, the operating profit margin and net profit margin are determined. OPM measures the business's operational effectiveness, whereas NPM measures its resilience to challenging economic situations[7], [8].

Availability Ratios

These are the quick ratio, current ratio, and acid test ratio. While quick ratio is computed by dividing current assets by total current liabilities, CR is a ratio of total current assets to total current liabilities. These numbers show a company's ability to fulfill its immediate responsibilities.

Capitalization Rates

The debt equity ratio compares an organization's total long-term external liabilities to its net value. significant debt to equity ratios is a sign of significant borrowings relative to owned capital, but they also have an impact on how well a business can operate since greater borrowing levels entail higher expenses and lower operating margins. As working capital borrowings, which are not reported by DER, may be disproportionate to capital in the case of those firms that are not capital intensive, this ratio may not provide the true picture. The ratio of total outside liabilities to tangible net worth, or TOL/TNW, may be employed to get better results[9], [10].

Comparison Ratios

The significant ratios in this area are the Interest Coverage Ratio and the Debt Service Coverage Ratio. ICR is determined by dividing EBIT by the total interest paid on long-term debt. DSCR is the ratio of the entire cash flows (before interest) to the total amount owed.

Inventory Turnover Ratio Turnover Ratio

One key ratio to evaluate the abilities of the company's management is this one. This demonstrates how quickly or slowly merchandise is moving. By dividing cost of products sold by average inventory, it is determined. A greater ratio indicates quicker inventory turnover. The average inventory holding time is also computed using this.

Ratio of Debtors' Turnover:

This percentage is crucial for assessing how well the company manages its receivables. It reveals how quickly or slowly the debts are recognized. It is determined by dividing net credit sales by the average number of outstanding debtors for the whole year. A greater ratio suggests quicker debt collection. Additionally, the average collection period is computed using this.

Model Du Pont

A financial analysis system developed by the US Du Pont Company is regarded as a key instrument for financial analysis. The Du Pont claims that ROCE is a good indicator of a company's earning potential. The combined impact of the profit margin and capital turnover is known as ROCE. The company's earning potential would vary if any of these ratios

changed. Numerous variables impact these two ratios. These two ratios would alter if any of these things changed. The Du Pont model is beneficial because it gives a picture of a company's total performance so that management may pinpoint the elements that affect the company's profitability. Because the profit margin ratio overlooks the profitability of investments and the investment turnover ratio ignores the profitability on sales, the two components of this ratioprofit margin and investment turnover ratiocannot independently provide a comprehensive picture.

Banking industry-specific financial analysis challenges Banks act as vital bridges between depositors and borrowers as financial intermediaries. Banks borrow money by accepting deposits from banks and other financial institutions, as well as from retail and wholesale consumers. The money is used to purchase assets. Loan assets are a wide category of bank assets. Assets and other investments A banker must use caution in both their roles as lenders and investors. He must do a due diligence exercise for a number of reasons: Since he also serves as the depositor's money's trustee, a lending and investing banker is concerned with safety and security. Banks run a variety of risks while lending and investing. Banks must maintain a balance between their assets and liabilities and make sure that liquidity is managed properly. To keep their NPA levels as low as possible, banks should carefully manage their portfolio of assets. Given the above, a banker's financial analysis would vary from that of other categories of people and companies who utilize the financial accounts for different reasons.

DISCUSSION

Financial Analysis by Bank as A Lender

The banks are curious about the potential borrower's financial information in addition to the borrower's honesty and KYC requirements when they are contemplating a loan request. Depending on the kind of loan, the borrower type, the purpose of the loan, etc., these facts might vary in length.

These financial facts may be little needed or not at all in cases of security-based lending, such as loans against fixed deposits, etc. In contrast, banks would make sure to acquire all pertinent financial data and other essential information in other circumstances of both fund-based and non-fund-based restrictions in order to secure the bank advances as well as to manage risks and recover loan amounts.

Value of the Borrower

A person's net worth is the difference between his assets and liabilities. The same holds true for every corporate organization, but banks must carefully assess net worth before considering different loans and advances.

Viability

Banks should evaluate the business unit's viability, operational capability, and potential to boost output using the suggested bank loans. This is one of the crucial factors a bank takes into account when evaluating credit. Examining the present activity's financial records may assist the bank determine if the requested bank loan would lead to a considerable expansion of activities.

Capacity for repayment

The loan payback terms will be decided based on the kind of borrower. In the case of an individual, the bank gathers information about his income and expenses, as well as any

repayments of prior borrowings, in order to determine if there is enough money left over to cover the loan's installment and interest. In contrast, banks acquire the majority of the necessary information about a business concern through its financial statements, and for the remaining information, banks gather information as part of their due diligence procedure. The following areas are often where the banker concentrates:

Performance and Financial Position Evaluation

The financial accounts may be examined to determine the profitability and trend of the company's business growth. The analysis of the financial accounts reveals the breakdown of the company's assets and liabilities. An opinion on the management and effectiveness of the business is developed by comparing them to the industry trend.

Financial Indicators of health

Analysis of financial statements is a crucial tool for determining the company's business orientation. Additionally, it helps the bank assess the client's financial situation. The banker can identify any decline in the company's financial health thanks to the financial analysis. With the use of this signal, the bank might prevent or reduce losses by taking appropriate action.

Evaluation of Credit Requirements

Even with their best efforts, banks still have trouble correctly determining the borrower's financial necessity. For the borrower and the bank, both over- and under-financing pose risks. Banks utilize financial statement analysis to determine the amount of credit needed to resolve this situation. The timely repayment of loan interest is another issue that worries banks. Analysis of the borrower's financial statements aids in determining the loan's terms and conditions, as well as the repayment schedule and credit risk assessment.

Verification Across

For the purpose of determining the drawing capacity in the cash credit account, the borrower's stock and book debt statements as of the balance sheet date are compared to the figures provided in the balance sheet.Banks engage in securities under the SLR and Non SLR investment categories in accordance with their investment policies and regulatory standards.

Banks make these investments for the following reasons:

1. Must abide with SLR specifications
2. In order to best use spare cash
3. Controlling the difference between assets and liabilities
4. To spread out the danger

The following factors must be considered while investing money in non-SLR securities:

1. They must follow counter-party and exposure limitations.
2. It is necessary to thoroughly evaluate the financial accounts of the banks and business customers where the cash will be placed.
3. The investment banker, like a lender, must confirm all the crucial factors to account for diverse dangers.
4. Banks must properly assess market risks and their effects if investments are made in market-related instruments.
5. Banks should use the mark-to-market principle to make sure that all such assets are priced fairly.

6. Banks should do PESTEL analysis and consider the influence of the PESTEL elements on their investments in addition to trend ratio and other analyses.
7. While investing, it's important to carefully evaluate the company's performance and stock markets in order to safeguard the bank's interests.

Current and Emerging Financial System Issues: The Financial System's Role

A financial system is an economic organization that collects money from diverse sources of excess and distributes it to the economically weaker sectors. The financial system is made up of a variety of intermediaries who are essential in drawing money from one sector and allocating it to another. Banks, financial institutions, mutual funds, and other middlemen are some of them. In general, the financial market may be divided into:

The business's founders have a variety of options to obtain money for investing in the company, including borrowing from banks and other financial institutions, investing their own money, and soliciting public investment in the form of shares, debentures, etc.

Financial Market

In the capital market, financial securities like shares and bonds are issued, subscribed to, and traded by investors, buyers, and sellers of securities.

This market assists in organizing the flow of savers' excess cash to the institutions, who subsequently invest them for use in the economy. In this market, long-term securities predominate.In this market, securities are made available for subscription to the general public with the goal of raising cash. The Securities Exchange Board of India, which oversees the capital market, and any related legislation, such as the Companies Act, should be followed while handling public matters. In order to help investors determine whether to participate in a firm, a variety of intermediaries, including merchant bankers and others, aid the public offering at various stages.Issues are divided into public, rights, and preferred categories in the primary market. While the processes for private placements or preferred problems are often easier, the public and rights concerns entail a thorough process.

Initial Public Offerings and Subsequent/Follow-On Public Offerings are two categories for public issues. An initial public offering (IPO) occurs when an unlisted firm issues new shares, makes an offer to sell its existing shares, or does both for the first time to the general public. On the other hand, a firm that is already listed forms an FPO when it either issues new securities to the public or makes a public offer to buy stocks via an offer document.One such instance is a rights issue, in which a publicly traded firm seeks to issue new securities to its current shareholders as of a record date.

The rights issue is often presented in a certain proportion to the number of shares that the owners currently own. According to Section 81 of the Indian Companies Act, 1956, a private placement is when a firm issues shares or convertible securities to a small number of people; it is neither a public offering nor a rights issue. This is a quicker method for a business to generate money.

Qualified Institutional Placements are an illustration of private placements. A listed business is making a private offering of equity shares or securities convertible into equity shares to only Qualified Institutional Buyers. According to SEBI's regulations, many facilitators provide their services to make sure that primary market problems are handled in accordance with established rules and processes. SEBI has established eligibility standards for organizations entering the primary market via public issues.

Issues with the Primary Market in several areas

The primary facilitator for public problems is a merchant banker. When making its offer document available for subscription, the issuing corporation provides comprehensive disclosures in accordance with the SEBI Disclosure and Investor Protection standards. When submitting the draft offer papers to SEBI, the merchant bankers are the specialist intermediaries that must guarantee, after doing enough due diligence, that the necessary disclosure and investor protection requirements are followed. If a merchant banker does not assure compliance, they will be fined by SEBI in accordance with SEBI Regulations. The merchant banker also posted a draft of the offer paper online for public discussion. Officials from SEBI at all levels review the specifics to make sure that the draft offer papers include all relevant material information.

Offering Paper

An offer document is known as a prospectus in cases of public issuance. In the event of a rights issue, it is referred to as an offer for sale and a letter of offer. This offer documentation must be submitted to another facilitator, such as the Registrar of Companies. Additionally, these offer papers must be submitted to the relevant stock markets.

Prospectus Red Herring

It is a prospectus; therefore it is missing information on the share price, the number of shares being offered, and the size of the issue. The number of shares and the upper and lower price ranges are provided if the price is not stated. It is a process of price discovery when it comes to book building problems. In this case, the final outcome of the bidding procedure would decide the final price. The specifics of the ultimate price are only published in the offer document after the bidding procedure is over. The prospectus, which is the offer document, is then submitted to ROC. An offer document is a crucial document that highlights all the pertinent data to help a potential investor decide whether to participate in the firm.

Cost of the Problem

The issuing firm must decide the price of an issuance in accordance with SEBI standards after consulting with the senior merchant banker. One of the two prices might be a floor price, a set price, or a price range.

Book Creation

The corporation goes through this procedure depending on the demand for the securities that are going to be offered. Based on the bids obtained for the quantity of shares made available for subscription by the issuing business, the price for the planned issuance of securities is set. It is a chance for the market to learn what securities are worth. In accordance with SEBI standards, a certain percentage of the issue is reserved for retail individual investors, non-institutional investors, and qualified institutional buyers throughout the book-building process. A retail investor is one who submits an application for or places a bid on assets with a value of up to $2,000,000.

The following are significant facilitators in primary market issues:

1. To the problem or Book Running Lead Managers, Merchant Bankers
2. Syndicate Participants
3. Registers for the problem
4. The problem is bankers
5. Sponsors of the matter

6. Auditors for the business
7. Solicitors

Merchant banker or lead manager of the running books

To serve as a BRLM for an issue, a merchant banker must be registered with SEBI in line with the SEBI Regulations 1992. The Lead Manager does due diligence on the company's operations, management, business strategies, legal, etc., throughout the pre-issue process. The LM also drafts and designs the offer papers, the prospectus, the required ads, and a note outlining the key points of the prospectus. The BRLMs guarantee that all requirements are met and that all procedures with the Stock Exchanges, RoC, and SEBI, including the completion of the Prospectus and RoC filing, are completed. The pre-issue activities also involve the appointment of other intermediaries, such as the Registrar, Printers, Advertising Agency, and Bankers to the Offer. The LM also develops the several marketing plans for the problem.

The LM handles all post-issue tasks, such as managing escrow accounts, organizing non-institutional allocation, notifying bidders of allocation, and sending refunds. The post Offer activities for the Offer will involve crucial next steps, such as the completion of trading and dealing in instruments, the sending of certificates, and the demat delivery of shares, with the help of the various organizations involved in the work, including the Registrar to the Offer, the Bankers to the Offer, and the bank handling refund business.In the event of a QIP mechanism, a merchant banker is needed to do the requisite due diligence.

Primary Market

Securities may be exchanged in a market called the Secondary Market after they are issued in the Primary Market and/or listed on the Stock Exchange. The secondary market is a marketplace where investors may purchase and sell securities.

Instruments - Financial

Equity Stock

The company's partial owner is the equity holder, sometimes referred to as the share holder. The equity holder may be entitled to dividends and voting privileges as members of the firm, depending on the shareholding arrangement. Once the stocks are listed, these shares may be purchased in the stock markets, via further/follow-on public offerings, or through initial public offerings.

Rights Concern

When a publicly traded firm needs to raise money from the market, one option it has is to organize a rights issue, or additional/new shares to the current stockholders. Rights Issues are made available to current shareholders whose names appear on a record date in a certain proportion to the amount of securities they own.

Favorite Shares

The holders of preference shares are entitled to a set dividend above equity shareholders, among other benefits.

In the event of a surplus, precedence is given to bond and debenture holders in the distribution of revenue over equity shareholders. In the event of a liquidation, their claims would come before those of equity shareholders but after those of the company's creditors. The holders of preference shares do not, however, have voting privileges.

Debentures

Purchasing debentures of a corporation is one of the alternatives open to investors. Every half-year or year, on a predetermined day, a fixed rate of interest is paid to debenture holders. The main sum is due back on the redemption date. Holders of debentures are the company's creditors.

Bonds

A bond is a negotiable certificate or paper issued as security for debt. Bonds may be divided into numerous categories based on their qualities, including coupon, zero coupon, convertible, and non-convertible bonds, among others.

Discount Bonds

An investor who purchases a bond receives a return on his investment depending on the coupon rate.

Bonds with no coupons

A Zero-Coupon Bond is a bond that is issued at a discount and repaid at face value. There is no recurring interest due.

The face value of the bond is given to the investor on the date of redemption, and the difference between the face value and the issue price represents the investor's return on investment.

Bonds that convert

1. The option to convert the bond into stock at a certain conversion price is given to the investor.
2. Nonconverging Bonds
3. The bond cannot be changed into stock at the investor's request.

Printed Paper

High credit rating businesses provide commercial papers in the form of promissory notes that are repaid to the holder at par but are issued at a discount. Commercial papers are money market products that are issued in accordance with Reserve Bank of India regulations.

Document of Deposit

A bank is the one who issues certificates of deposit. To be redeemed at par on the maturity date, it is issued at a discount.

The required down payment is $100,000. It can be obtained for a minimum of seven days and a maximum of one year. It is distributed as a use promissory note. From the day of issuance, the CDs are tradable on the market. The Reserve Bank of India's regulations are followed for issuing the CDs.

Investment funds

In the financial services industry, mutual funds are a crucial kind of financial intermediary. A mutual fund invests in stocks, debt, and other financial instruments by pooling investor funds. A mutual fund is described as "a fund established in the form of a trust by a sponsor to raise funds by the trustees through the sale of units to the public, under one or more schemes, for investing in securities in accordance with these regulations" in SEBI rules from 1993.

Mutual Funds' Place in the Capital Market

Through a variety of programs, mutual funds let investors get access to the capital markets. Mutual funds assist investors in making investments in a variety of schemes via its nationwide network and role as financial consultants to their customers. Any company or individual that distributes or sells mutual fund products must pass the necessary tests administered by the Association of Mutual Funds in India in order to ensure consistency under SEBI's regulations. Based on the method of execution, mutual funds are divided into two major groups. Both open and closed ending. In addition to the categories mentioned above, mutual funds may be divided into:

Closed-end funds

This is a well-liked mutual fund strategy. The amount of the fund and its duration are not predetermined in this instance.

The fund's primary goal is to generate income, although investors are allowed to purchase and sell any number of shares at any time. An open-ended fund allows for unrestricted admission and exit by investors.

The units would be purchased by the mutual fund based on their Net Asset Value even though they are not listed on the stock market. When an investor sells his units to a mutual fund on any working day, he benefits from getting immediate cash.In contrast to open ended funds, this plan has a set corpus and tenure. These are offered for a certain time, and investors may purchase the units at face value.

Other crucial aspects include:

The fund wants to increase its value in the long run. These scheme's units are traded on stock markets. A close ended scheme's whole funds would be liquidated upon redemption, and the money would then be dispersed to the unit holders.

Revenue Funds

This fund scheme's goal is to routinely deliver income to the participants. Through their investing approach, the fund managers seek to beat the interest rate on fixed-term bank deposits.

Funds for Growth

Growth funds are one of the best options for long-term investors. Through this fund, the fund managers want to achieve capital growth. Unlike income funds, regular revenue is not delivered via this fund.

Equilibrium Funds

The mix of income and growth funds is one of the characteristics of balanced funds. The unique quality of this fund is that it seeks to provide both regular income and capital gains. The fund managers attempt to do this by balancing their assets between fixed income products like debt instruments and high growth equity shares.

Money Market Investments

an open-ended investment program that only invests in highly liquid and secure money market instruments, such as certificates of deposits, commercial papers, Treasury bills, and similar securities.

Tax-saving programs

Investors and income tax payers may contribute to this fund as part of their tax preparation. The investments under this fund draw a lot of investments based on the tax breaks provided by the Income Tax Act, particularly during the months of January, February, and March every year.

Index Funds and other popular funds

due to the expansion of the economy. Mutual funds issue index funds to take advantage of the expanding investment possibilities and to spread out the risks. Investment managers place their money in certain index funds according to market circumstances.A mutual fund is said to invest in other mutual funds or funds of other mutual funds when it does so.

Funds by Industry

Investments are made in many industry sectors, such as pharmaceutical companies, banking, automobile companies, etc. Depending on the investment manager's plan, the assets are placed in several sectoral funds to benefit from stock market fluctuations.

Value of Net Assets

The NAV for various schemes must be declared on the websites of mutual funds on a regular basis. The net asset value (NAV) of a certain fund is determined daily by mutual funds. Once the first issuance is complete, the funds are purchased and sold at NAV. NAV reflects market circumstances and may increase or decrease based on a number of variables. Based on the NAV of the specific scheme, units are redeemed.

CONCLUSION

In conclusion, the methods employed in financial statement analysis are crucial instruments for assessing a company's financial performance, risks, and health. Stakeholders may improve the overall financial management and stability of enterprises by doing extensive and precise financial analysis, which will help them make well-informed choices, spot potential problems, and pinpoint areas for development.

For businesses to understand their financial status, manage problems, and grab chances for sustained development and success in a dynamic and competitive business environment, regular and thorough financial analysis is a crucial discipline.

Financial analysis should be carried out cautiously, keeping in mind the intricacies and restrictions of each approach. Understanding the dynamics of the industry and the environment in which the firm works is necessary for the interpretation of ratios and trends. Furthermore, relying exclusively on financial records could not provide a whole picture of a company's success, needing the integration of non-financial data and qualitative research.

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CHAPTER 25

FINANCIAL SYSTEM CONTEMPORARY AND EMERGING ISSUE: AN OVERVIEW

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ABSTRACT:

The financial system is a complex network of institutions, markets, and regulations that facilitate the flow of funds and promote economic growth. This paper provides an overview of contemporary and emerging issues in the financial system, examining challenges and trends that have arisen in recent years. The paper analyzes issues such as technological disruptions, financial inclusion, climate change risks, cybersecurity threats, and regulatory developments. By exploring case studies and relevant literature, this study sheds light on the dynamic nature of the financial system and the need for adaptive measures to address these emerging challenges.

The findings highlight the importance of robust and innovative financial systems in supporting sustainable economic development and fostering financial stability.Technological disruptions, such as fintech innovations, are transforming traditional financial services, enhancing efficiency, and expanding financial inclusion.

However, these advancements also pose challenges, including data privacy concerns and cybersecurity threats, necessitating robust regulatory frameworks and risk management practices.

KEYWORDS:

Blockchain Technology, Bank,Cryptocurrencies, Financial Inclusion, Fintech, Green Finance.

INTRODUCTION

Foreign Institutional Investors

According to SEBI Regulations from 1995, a foreign institutional investor is defined as an organization founded or incorporated outside of India that plans to invest in Indian securities. For the purpose of investing in the Indian equities and debt markets, foreign institutional investors must be registered with SEBI.

Stock market

A stock exchange is a marketplace where investors and traders may buy and sell stocks, bonds, and other assets via stock brokers. Only the exchange's stock brokers members are allowed to trade on the exchange. The capital market regulator oversees the stock exchanges.For the settlement of payments and delivery of securities, the stock exchanges also provide clearing services.

Depository

A depository is a kind of institution or organization that keeps securities that are traded there, such as shares, debentures, derivatives, commodities, etc.

India has two depositories: National Securities Depository Limited and Central Depository Services Limited (b).

Depository Participant (DP):

A DP is the depository's representative. It serves as a go-between for the investor and the depository. Only after receiving a certificate of registration from SEBI is a DP able to provide depository-related services.

Accounts for De-mat

De-mat accounts are kept up to date electronically. Dematerialization is the process of turning physical or paper assets into digital ones. A depository participant who has an account with either Central Depository Services Limited or National Securities Depository Limited opens the de-mat account.

Market makers

These organizations are stock exchange members who are also obliged to register with SEBI and follow its rules. Intermediaries between buyers and sellers of stocks and other assets include stock brokers.

Qualified Institutional Buyers, or QIBs, are institutional investors who are thought to have the knowledge and resources to assess and participate in the capital markets. The SEBI rules' clause 2.2.2B applies to them. Examples of QIBs include:commercial banks on the schedule Mutual funds (ii) iii. SEBI records foreign institutional investors. iv. SEBI-registered venture capital funds vs public financial institutions as outlined in the 1956 Indian Companies Act. State Industrial Development Corporations, as well as insurance providers licensed by the Insurance Regulatory and Development Authority, round up the list of vi.

Direct foreign investment

It describes an international investment made by a citizen of one country with the intention of acquiring a long-term stake in a company.The purchase of at least 10% of the ordinary shares or voting power in a public or private firm by non-resident investors qualifies as FDI in accordance with IMF and OECD standards. Although FII is specified in SEBI laws, there is no equivalent regulatory framework for FDI in India:

Due to insufficient local capital, foreign capital flow is promoted via the route of foreign direct investment in order to assist the economic development of a country. In addition to financial money, FDI also offers other advantages including technological know-how, business skills, and information.

The Foreign Investment Promotion Board's primary responsibilities are to expedite the clearance process, regularly examine how approved projects are being implemented, review general and sectoral policy guidelines, and carry out investment promotion activities.

Management of International Banking

International banking is defined as banking activity that occurs across international boundaries. The development of economies in today's dynamically competitive world relies on a nation's connections to other countries and its capacity to expand its international commerce and financial operations. In this context, the role performed by banks throughout the world, who are increasingly interconnected internationally, gains significance. Global business expansion prospects are provided by international marketplaces to merchants, corporations, and multinational organizations. International investors look at additional investment opportunities. The development of commerce and financial activity across international boundaries is made possible by the financial markets on a global scale.

"International Banking" is a subset of commercial banking activities and transactions that include cross-border and/or cross-currency transactions.

Multinational banking refers to the presence and ownership of financial institutions across several nations and geographical areas. The currency of the transaction's denomination, the bank customer's residency, and the location of the booking office all serve to differentiate international banking transactions from merely local ones.

Features of international banking

Expansion:

Tradespeople may grow their businesses and trade operations outside of national borders with the help of international banking. Many businesses are seeking outside of their own countries for company expansion due to reasons including economic growth and an environment that is favorable for doing commercial operations in other countries.

Other crucial elements for the development of global commerce and finance include competitive advantages in terms of pricing, demand and supply variables, future growth prospects, cost of production and operational expenses, etc. In light of this, the expansion of international banking has been facilitated by the existence of banks around the world.

Regulatory and legal framework:

A flexible legal and regulatory environment promotes traders' and investors' participation in global markets. Quick clearance for company establishment, simpler compliance requirements, and favorable political environments encourage numerous new businesses to join many countries and develop their operations. Additionally, several tax havens serve as key offshore financial hubs owing to lower tax rates or the absence of taxes, which motivates numerous multinational banking organizations to establish offices there.

Capital Cost:

The average cost of capital affects an enterprise's operational efficiency. To benefit from the cheaper cost of financing in these regions, many businesses expand into new developing markets.

Banks serve as a crucial source of funding as a financial middleman.Banks improve their earnings by taking advantage of the arbitrage opportunity in various global marketplaces thanks to their professional expertise.

Transactions involving the current and capital accounts:

Banks are essential to both import and export commerce. In addition to extending trade financing and investment possibilities, banks assist businesses, corporate clients, and people doing business internationally by offering a variety of financial and non-financial assistance. Through its network and correspondent banking agreements, banks also assist in the flow of money.

Risks:

Since diversification may be achieved by taking on a variety of risks, international investors are searching for other places to put their money in order to achieve the dual goals of higher returns and financial security. International banks face a variety of hazards due to their location across time zones.

DISCUSSION

Evolution of International Banking

Over the years, the international monetary system has undergone several modifications. In the beginning, the barter system was used as a form of payment and exchange for economic transactions. Various materials, including valuable stones, gold, paper, etc., have been used as money throughout history. The evolution of the Gold Standard System and the development of the Fixed and Floating Exchange Rate Systems are two significant developments that occurred in global financial markets during the last century.

Platinum Standard System

Up to the First World War, this method was in operation. The gold standard system was based on gold's worth and was dependent on how much gold the government or monetary authority had. Different kinds of gold standards have been used throughout time. Gold bullion standards, gold specie, and a gold exchange system all existed.

Gold Standard Species

Actual gold coins and/or coins with a set amount of gold were in circulation under this system.

This system operated under the following restrictions: gold could be freely exported and imported, and governments had to proclaim that gold was the official medium of exchange for goods and services[1], [2].

Bullion in Gold Standard

The USA introduced this system. The monetary authorities kept gold on hand under this arrangement. The form of money in use was paper money. The currency was unconditionally convertible into gold on demand and was tied to gold. The countries issuing the money specified the amount of gold on each note[3], [4].

Exchange Standard for Gold

Currency may be exchanged for another currency under this system, as guaranteed by the monetary authority, at a certain ratio. It was referred to as the reserve currency since it was tied to another currency. Due to their dominance on global markets, several countries adopted the US dollar or the British pound as their reserve currency. Like the gold bullion standard, these reserve currencies could also be exchanged for actual gold.

Gold Standard System - Key characteristics

Government or the monetary authority was only permitted to issue money when there was enough gold to back it up. Because exchange rates were dependent on the amounts of gold held relative to each currency, there were not many changes in the gold parity. Given the above, this approach guaranteed stable exchange rates[5], [6].

Limitations:

The governments and/or the monetary authorities had to be prepared at all times to exchange any quantity of paper money for gold. The issue of the money was contingent upon the issuing authorities maintaining the correct amount of gold in reserve, and in the event that quantity decreased, the authorities reducing the number of notes in circulation. Many

countries struggled to maintain the gold parity for a variety of reasons, including political and unforeseeable events like war, natural disasters, etc.

Gold Standard - Failure Causes

The United Kingdom ceased utilizing the gold specie system and switched to the bullion standard as a result of World War I. Up until 1931, the bullion standard was in use. The United Kingdom likewise abandoned the use of the gold standard because it believed that significant quantities of gold were being transported to other countries. Due to financial difficulties during the Great Depression, countries including Australia, Canada, and others had left the gold standard. In the US, the gold standard was abolished in 1933 when President Roosevelt forbade the private ownership of gold, with the exception of gold jewelry. Wars created a scenario where there was a greater need for financial assistance to cover war costs. As a result, governments and monetary authorities were obliged to produce more currency notes without sufficient backing from gold stored in their national treasuries. In addition to these concerns, several nations also experienced low GDP, increased inflationary pressures, and declining currency values.

Bretton Woods Summit

Many events, including the First World War, the 1929 Wall Street Crash, the Great Depression, the Second World War, and most significantly the collapse of the Gold Standard System—occurred during the first half of the 20th century. Due to the financial crisis that affected many countries worldwide, policymakers decided to address these global financial challenges. At Bretton Woods in New Hampshire, USA, 44 Allies from the Second World War gathered in 1944.

Important Elements of the Bretton Woods Systems

With a set parity of US$35 per ounce of gold, the United States of America assumed responsibility for the conversion. Other IMF members also agreed to preserve certain parities between their currencies and the US dollar. In the parity iii, a 1% deviation was permitted. If the member nations' exchange rates go beyond the 1% barrier, the monetary authorities must take action to correct the situation. If the market was actively purchasing dollars, the government should make arrangements to organize sales of dollars in order to preserve parity. Member banks were permitted to borrow money from the IMF using Special Drawing Rights in order to control the parity level[7], [8].

Worldwide Monetary Fund

It has 188 members as of the current day and was founded in 1945. Its goals are to advance global monetary cooperation, pursue stable exchange rates, encourage the expansion of international commerce while fostering job opportunities, and support the construction of a multilateral payment system. to help members in the event of a balance of payments problem. It is crucial to make the legal ramifications of any overseas financial operations as predictable as feasible. Since the rights and duties of the different parties will often be established by the local systems of law under which they contract, this predictability issue typically does not present a substantial difficulty in solely domestic banking transactions. In international banking, this won't always be the case, thus it's critical to build the transaction paperwork inside a strong legal framework.

The best method to do this is to choose both the legal system that will control the transaction's legal terms and the court that will have the authority to adjudicate any potential conflicts.

Syndicated Credit: Key Characteristics

A syndicated credit is a loan that is provided to a borrower by a number of institutions. The lenders provide loans in accordance with a standard loan agreement that outlines the terms and circumstances that have been agreed upon between the lenders and the borrower. The syndicated credit is often expressed in euro currency or US dollars. These credits are often created using fluctuating interest rates. A syndicated loan agreement's parties and their respective roles

The participants to an international syndicated loan are, in general, as follows: the arranger or mandated lead arranger; the book runner;the agent; andthe security trustee. In addition to counseling the borrower on the necessary types of facilities, the arranger is in charge of negotiating the general terms and conditions for those facilities. Book Runner asks Banks to become a member of the syndicate and keep track of the amount of debt that each prospective syndicate member is willing to take on. The borrower makes all payments to the Agent, who then distributes the funds to the syndicate members in accordance with their share. Agent: One bank from the syndicate is appointed as the Agent of Lenders and serves as the point of contact, monitors the borrower's compliance with the terms of the facility, acts as a postman and record keeper. He holds the security in trust for the benefit of all lenders.

Banks and customers would expressly include a choice of law provision in the contract paperwork for any foreign lending transactions. If clear decision is not made, the system of law that has the strongest and most direct link to the transaction will govern the contract. The identification and determination of the enforcement in the borrower's home country and/or in those countries where the borrower's assets are located are additional crucial factors for the banks. The main features of the international loan agreement(s) are:

Application of International Laws in an International Banking Scenario

Choice of Laws:

When doing cross-border business, it's crucial to choose the legislation that will control your international financial transaction(s). Therefore, it is essential to choose a specific legislation that would safeguard the rights and duties of the parties concerned.

Proper Law:

It is crucial to choose a legal clause carefully in order to choose a law that will safeguard the parties' rights and duties. The typical clause that would be included in the agreements would read something like this: "This agreement shall be governed, continued, and interpreted in accordance with the law of This shows that the parties have agreed to a specific law, if there is any dispute in the future, to protect their rights and obligations. Recognition and enforcement of judgements: This is another crucial factor that has to do with the recognition and execution of decisions or awards made by foreign arbitral tribunals. Because they both have an established legal framework that covers commercial jurisprudence and is tightly interwoven with the global financial system, London and New York laws are favored in light of the previous experiences.

The UCPDC and other rules pertaining to international commerce are published by the International Chamber of Commerce Paris. Due to this, the honorable courts often accept these principles and desist from rendering judgments in regard to commercial disputes, and the parties involved are recommended to follow the rules set out in any relevant ICC publications. The International Chamber of Commerce offers a framework for international commercial dispute resolution via conciliation and arbitration. In addition, the Singapore

International Arbitration Center has recently gained recognition as a major venue for the arbitration of trade-related issues.

Derivative Transactions:

A derivative is a financial product whose value is based on the value of an asset, index, or interest rate as its underlying entity. It is worthless on its own terms. Structured debt obligations and deposits, swaps, futures, options, caps, floors, collars, forwards, and different combinations of these are all financial contracts that fall under the category of derivative transactions[9], [10]. Different types of derivative instruments are used as risk management tools to hedge various risks like credit risk, interest rate risk, foreign exchange risk, etc.

Management of International Banking Operations

One of the crucial elements of the global financial system is international banking. It now has additional traits and dimensions since 1973. The number of players, which at the beginning of the period consisted mostly of American banks, has significantly increased to include branches and subsidiaries of German, UK, Japanese, French, Italian, and now Asian banks. International banks must deal with various challenges, including cross-border hazards, an international legal and regulatory framework, and money laundering operations, as a result of the significant development of international banking and the increase in cross-border transactions. Transnational markets are volatile as a result of several variables, including PESTEL considerations.

The operations of international banks across all countries are under increasing strain as a result of all these problems. In order to address these challenges, it has become necessary for multinational banks to step up their operational efforts.

Business growth:

There are several connections between international banks;

1. Bank correspondents
2. Overseas branches
3. Foreign affiliates and subsidiaries
4. Units for offshore banking

Banks that keep correspondent accounts with one another provide an informal connection between banks in several nations. Nearly all nation where large banks do not have their own offices has correspondent links with other banks. To make overseas payments and collections for clients easier, businesses keep foreign correspondents. Banks are able to assist their customers in doing business overseas thanks to correspondent banking. Although the main purpose of this relationship is to settle customer payments, it may also be used to establish connections between local business owners and the consumers of the correspondent banks and to provide each other's customers a small amount of credit. It is very helpful to have a correspondent banking connection when issuing or verifying L/Cs, guarantees, bid bonds, etc.

Foreign branches:

Banks are referred to as "Foreign Branches" when they establish branches in another nation or countries. Both domestic and host nation banking regulations apply to foreign branches. The books of a foreign branch are integrated with those of the parent bank, but the foreign branch will also keep separate records to reflect different performance for tax reasons from that of the parent bank for local authorities. These international offices often have the newest

technology, and since they have a competitive advantage, they can provide their customers with greater customer service and cutting-edge goods.

Foreign Affiliates and Subsidiaries

A locally established bank that also happens to be fully or substantially owned by a foreign parent is referred to as a foreign subsidiary. Foreign subsidiaries conduct all forms of banking, and it could be quite challenging to tell them apart from a typical locally held bank. Even if foreign ownership is just partial, foreign owners control foreign companies. Although foreign affiliates are locally formed, unlike subsidiaries, they are joint businesses over which no one foreign owner has control.

Unit for Offshore Banking

As previously said, international banking conducts its business via a variety of channels. Offshore banking, however, has several unique advantages over traditional forms of banking. A bank outside the depositor's country of residence is known as an offshore bank. These OBUs are often found in a low-tax region or tax haven that offers favorable tax and legal conditions.

Significant characteristics of offshore banks:

Access to politically and economically stable nations is made possible by offshore banks. This enables citizens of many politically unstable countries to access offshore banking facilities in other cities, which may provide superior investment opportunities. Deposit interest rates are higher: In the majority of offshore financial hubs, banks are allowed to set their own interest rates without any limitations. Offshore banks are able to provide higher rates to their depositors due to reduced operating costs and other competitive advantages. Since the majority of offshore banks are situated in tax havens, either fewer taxes must be paid there or no taxes are applied. Banks have exemptions from reserve requirements in the majority of offshore banking locations, which lowers expenses. Due to the lack of regulatory oversight, one of the problems that offshore banking units encounter is that they are used as a means of money laundering. Offshore Banking in India - Key Features: In India, offshore banking units can be established in Special Economic Zones.

The Reserve Bank of India may provide authority to offshore banking entities to conduct foreign exchange business under Article 10 of the Foreign Exchange Management Act, 1999. OBUs would be regarded as overseas branches of Indian banks with offices in India. SEZs are classed as foreign territories for the purposes of trade operations and duties/tariffs to stimulate exports. These OBUs would be free from reserve restrictions and provide SEZ developers and their units access to foreign financing at foreign rates. OBUs would provide services for wholesale banking. International banks manage their activities across numerous financial markets operating in different time zones by establishing various sorts of outlets and linkages, such as correspondent banks, overseas branches, foreign subsidiaries, and affiliates. Effective international risk management systems, solid corporate governance procedures, and keeping up with the changing environment by providing cutting-edge, cost-effective goods and services while leveraging technology advancements are all necessary for international banks to operate efficiently.

Controlling Risk in Global Banking

While risks are a natural part of life and apply to local commerce and investment as well, these institutions are exposed to much more risks while engaging in international banking operations due to a number of circumstances. The crucial elements are:

Cross-Border Risk:

Risks associated with cross-border commerce and investment between two or more nations are a result of these activities. One of the main hazards that the multinational banks confront is this one. Country risk is another name for this kind of risk.

Currency Risk:

A currency deal would come from any foreign commerce or financial activity. The extra agreement creates a new risk called currency risk. When there are two or more currencies involved, there is also a risk known as "foreign exchange rate risk" because of market volatility in the exchange rates of the currencies.In addition to the aforementioned dangers, the following additional ones are listed:

Credit Risk:

In today's complex international financial markets, counterparty risk in the interbank market as well as off-balance sheet contracts like forward contracts, interest rate swaps, and currency swaps are the main sources of counterparty non-performance of obligations. Due to this, maximum exposure limitations for each counterparty to fund and non-fund exposures have had to be established.

Credit Risk Mitigation:

Banks have created risk management policies that have been officially authorized by their board in order to handle a variety of risks. Following are a few examples of risk reduction techniques:

To guarantee better credit evaluation, banks have established an expert credit management staff. Credit limitations are put up at both the individual and organizational levels to minimize risks. The Investment Policy of the bank governs investments. The Bank's investment policy is created in accordance with the Regulator's instructions.

Before granting limits for unfunded credit lines to clients, a thorough credit appraisal must be completed due to the uncertainties surrounding the nonperformance of off-balance sheet items like letters of credit, guarantees, and derivative products like forward exchange contracts, futures, interest rate swaps, options, etc. Collateral security should be secured in the form of sufficient monetary and/or material assets. Exposure limitations should be set up covering counterparty, industry, country, and business group for on and off-balance sheet goods. Such collateral security should be valued on an ongoing basis based on market pricing to determine the current value.

Occupational Hazards

Non-compliance with established trading, settlement, and custody processes and authorizations may result in operational hazards;Legal risks resulting from insufficient covenant definitions, coverage, and obligations of the bank and counterparty in contracts and agreements. The management of risks, particularly operational risks, should place a high priority on information technology, which powers the markets. For speedy and accurate movement of financial transactions and money across foreign markets, high-quality hardware, software, and an updated IT support system are essential. Due consideration must be paid to managing this specific section in order to provide superior disaster control management using a tried-and-true backup solution. To lessen the effects of operational risks brought on by system failure and human mistake, human resource management has to get the necessary attention. The banks would benefit from greater performance and lower operational

risks with good and efficient training. Due to insufficient definitions and coverage of covenants and obligations of the bank and counterparty in contracts, there is a lack of compliance with the legal and/or regulatory framework. Frauds and inadequate internal control systems: If banks have well-defined and efficient internal control and audit systems, operational risks may be decreased. To have a better control system, banks' Treasury operations should be clearly divided into front office, mid office, and back office. The internal control system must be efficient in that many operations must be exposed to online audits, and risk assessment must be a crucial component of an efficient internal control system.

Money laundering:

Controlling money laundering operations is a top priority for international banks. Because of how swiftly technology is developing and being used, money may be transmitted instantaneously from one end of the earth to the other. Banks would face several operational risks if they didn't have adequate control systems in place to handle money laundering. Banks should make sure that clear KYC regulations are carefully followed at all levels, notably at the entry level of a financial transaction, in order to create a stronger control system.

Compliance with Policies and Procedures

The rules must be adhered to scrupulously by traders, dealers, and other bank workers. They adhere to the restrictions and respect them. All actions are taken in accordance with established rules, processes, and procedures, and with the necessary permissions and authorizations. For improved management review, control, and risk detection, a suitable reporting system should be in place. In order to do this, the management information system should be both accurate and user-friendly. For a better outcome, there should be effective coordination between the various bank departments. One of the most important components is a fair performance appraisal system, and this feature has to be given appropriate weight. To safeguard the banks, particularly in one-off transactions and structured agreements, large-scale deals, transactions, and legal documents should be carefully drafted and reviewed. International markets, which operate around the clock in several time zones and encompass many international cities, include international banking. As a result, banks should place a high priority on market volatility caused by a variety of variables, including PESTEL factors, technical factors, and fundamental factors. A continual evaluation is crucial for managing diverse risks by adopting appropriate and proactive measures. International banks must implement a successful and efficient risk management system to recognize all sorts of hazards and manage them in advance of Basel III regulations.

CONCLUSION

In conclusion, the financial system is now dealing with a number of new and developing problems that call for proactive and adaptable solutions. Fostering a robust and sustainable financial system requires embracing technology innovations, increasing financial inclusion, tackling climate risks, strengthening cybersecurity, and guaranteeing efficient regulatory monitoring. To address these issues and promote an inclusive and stable financial system that can support economic development and prosperity for everyone, cooperation among stakeholders, including governments, financial institutions, and regulatory agencies, is crucial. Threats to cybersecurity put financial organizations and their clients at serious risk. The financial industry is increasingly susceptible to cyberattacks as it grows more digitally networked. To protect financial infrastructure and client data, strong cybersecurity procedures and ongoing monitoring are crucial. The way in which the regulatory landscape evolves will determine how well the financial sector can address new issues. To ensure financial stability

and avert systemic risks, regulatory agencies must find a balance between fostering innovation and defending consumer interests.

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