

Government Policy On Banking Industry

By

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In Banks operating in most of the countries must contend with heavy regulations, rules enforced by Federal and State agencies to govern their operations, service offerings, and the manner in which they grow and expand their facilities to better serve the public. A banker works within the financial system to provide loans, accept deposits, and provide other services to their customers. They must do so within a climate of extensive regulation, designed primarily to protect the public interests.

The main reasons why the banks are heavily regulated are as follows:

- To protect the safety of the public's savings.
- To control the supply of money and crediting order to achieve nation's broad economic goal.
- To ensure equal opportunity and fairness in the public's access to credit and other vital financial services.
- To promote public confidence in the financial system, so that savings are made speedily and efficiently.
- To avoid concentrations of financial power in the hands of a few individuals and institutions.
- Provide the Government with credit, tax revenues and other services.
- To help sectors of the economy that they have special credit needs for eg. Housing, small business and agricultural loans etc.

LAW OF BANKING:

Banking law is based on a contractual analysis of the relationship between the bank and customer—defined as any entity for which the bank agrees to conduct an account. The law implies rights and obligations into this relationship as follows:

- The bank account balance is the financial position between the bank and the customer: when the account is in credit, the bank owes the balance to the customer; when the account is overdrawn, the customer owes the balance to the bank.
- The bank agrees to pay the customer's cheques up to the amount standing to the credit of the customer's account, plus any agreed overdraft limit.
- The bank may not pay from the customer's account without a mandate from the customer, e.g. cheques drawn by the customer.
- The bank agrees to promptly collect the cheques deposited to the customer's account as the customer's agent, and to credit the proceeds to the customer's account.
- The bank has a right to combine the customer's accounts, since each account is just an aspect of the same credit relationship.
- The bank has a lien on cheques deposited to the customer's account, to the extent that the customer is indebted to the bank.
- The bank must not disclose details of transactions through the customer's account—unless the customer consents, there is a public duty to disclose, the bank's interests require it, or the law demands it.

- The bank must not close a customer's account without reasonable notice, since cheques are outstanding in the ordinary course of business for several days.

These implied contractual terms may be modified by express agreement between the customer and the bank. The statutes and regulations in force within a particular jurisdiction may also modify the above terms and/or create new rights, obligations or limitations relevant to the bank-customer relationship.

REGULATIONS FOR INDIAN BANKS:

Currently in most jurisdictions commercial banks are regulated by government entities and require a special bank license to operate. Usually the definition of the business of banking for the purposes of regulation is extended to include acceptance of deposits, even if they are not repayable to the customer's order—although money lending, by itself, is generally not included in the definition.

Unlike most other regulated industries, the regulator is typically also a participant in the market, i.e. a government-owned (central) bank. Central banks also typically have a monopoly on the business of issuing banknotes. However, in some countries this is not the case. In UK, for example, the Financial Services Authority licenses banks, and some commercial banks (such as the Bank of Scotland) issue their own banknotes in addition to those issued by the Bank of England, the UK government's central bank.

Some types of financial institutions, such as building societies and credit unions, may be partly or wholly exempted from bank license requirements, and therefore regulated under separate rules. The requirements for the issue of a bank license vary between jurisdictions but typically include:

- Minimum capital
- Minimum capital ratio
- 'Fit and Proper' requirements for the bank's controllers, owners, directors, and/or senior officers
- Approval of the bank's business plan as being sufficiently prudent and plausible.

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