

Banking & Finance Paper III
Banking Law and Practice in India

Semester: V	Subject Code: C 51707	Lectures: 60
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Objectives:

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

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

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

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

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

Self Study (Sem V):

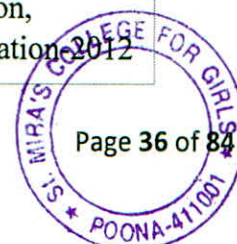
- (1) Reserve Bank of India Act, 1934
- (2) Banking Regulation Act as applicable to Cooperative Banks, 1966

Bare Acts:

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

Basic Reading:

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



Reference Books:

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

Banking & Finance Paper III
Banking Law and Practice in India

Semester: VI	Subject Code: C61707	Lectures: 60
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Objectives:

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

Unit 1: Secured Advances	18
<ul style="list-style-type: none"> • Principles of Lending <ul style="list-style-type: none"> ○ Principles of Secured Advances, ○ Types of Securities, ○ Precautions to be taken while accepting securities against advances; • Modes of Creating Charge against advances – <ul style="list-style-type: none"> ○ Lien- Meaning, Features ○ Pledge- Meaning & Features, ○ Hypothecation- Meaning & Features, ○ Assignment- Meaning & Features, ○ Mortgage– Meaning & Features, Types ○ Recovery Measures <ul style="list-style-type: none"> ○ Non –legal Measures: <ul style="list-style-type: none"> ▪ Follow-up action, ▪ Rescheduling, ▪ Compromise, ▪ Recovery Camps, ▪ One-time settlement; ○ Legal Measures- <ul style="list-style-type: none"> ▪ Lok Adalats - Concept, Structure ▪ Corporate Debt Restructuring- Concept, Features ▪ Debt Recovery Tribunals- Concept, Structure • Securities & Reconstruction of Financial Assets & Enforcement of Security Interest Act (SARFAESI), 2002 <ul style="list-style-type: none"> ○ Concept of Securitization, ○ Objectives of the Securitization Act ○ Definitions and Process 	

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

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| <ul style="list-style-type: none"> ▪ Cost of Capital, ▪ Current Account and Capital Account Transactions and ▪ Risks • Classification of International Banks <ul style="list-style-type: none"> ▪ Correspondent banks, ▪ Foreign branches, ▪ Foreign subsidiaries & affiliates and ▪ Off shore Banking Units • International Banking Laws- Choice of Law, Proper Law, Use of Language and Nature of Legal Issues/Disputes • Bank of International Settlements (BIS)- Evolution and Role | |
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***Assignments and library hours – 12 hours**

Bare Acts:

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

Basic Reading:

- Albuquerque Daniel (2013) “Legal Aspects of Business- Texts, Jurisprudence and Cases” Oxford University Press
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- Indian Institute of Banking & Finance (2007) ‘International Banking Operations’
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- Vaidyanathan K. (2013) "Credit Risk Management for Indian Banks" Sage Response Business Books
- Tannan M L (2010) "Banking Law and Practice in India" Lexis-Nexis India

Reports & Bulletins:

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

Circulars:

- RBI Circular – Willful Defaulters