

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

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

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

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

**Unit 2: Banking Regulation Act, 1949****6**

- 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**

- Paying Banker
  - 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
  - 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**

- Definition, General & Special Features,
- Relation of Banker and Customer-
  - Creditor & Debtor,
  - As Agent,
  - As Trustee and
  - As a Bailee
- Rights of a Banker-
  - 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-



- Obligation to maintain secrecy of the Account,
- Obligation to carry out directions;
- Garnishee Order;
- Termination of Relationship

### Unit 5: Banking Ombudsman

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- 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):

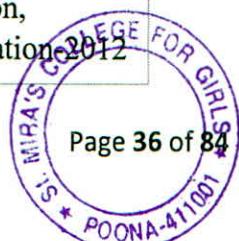
- (1) Reserve Bank of India Act, 1934
- (2) Banking Regulation Act as applicable to Cooperative Banks, 1966

##### 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



### Reference Books:

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

**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**

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

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

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

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

**Bare Acts:**

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

**Basic Reading:**

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

### **Reports & Bulletins:**

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

### **Circulars:**

- RBI Circular – Willful Defaulters