

# **BANKING THEORY, LAW AND PRACTICE**

**II.B.Com**

**SEMESTER: III**

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## **Unit - I**

Origin of banks – Banking Regulation Act, 1949 – Roll of Banks and Economic Development – Central Banking and Role of RBI and their functions - Credit Control Measures of Central Bank.

### **ORIGIN OF BANKS**

The first **bank** in **India** was the '**Bank** of Hindustan' started in 1770 by Alexander & Co., an English agency house in Calcutta which failed in 1782 with the closure of the agency house. ... **History** apart, it was the 'merchant banker' who first evolved the system of **banking** by trading in commodities than money.

### **Growth / History of Indian Banking Industry**

#### **Phase I**

- General Bank of India set up 1786 – followed by Bank of Hindustan and Bengal **Bank**
- East India Company established bank of Bengal 1809
- Then Bombay bank 1840
- Bank of Madras 1843
- All three banks amalgamated in 1920 – Imperial Bank established
- Punjab National bank ltd – 1894 for Indian
- RBI in 1935

#### **Phase II**

- 1955, 14 comm. Bank nationalized
- 1980 banking reforms carried out

#### **Phase III**

- 1991 ATM

### **Banking Definition**

Section 5(b) of the Banking Companies Act, 1949 defines banking as “accepting deposits from the public, repayable on demand and withdraw able by cheque, draft, and order or otherwise”

**Definition of Dr,Herbert Hart** – a banker or a bank is a person carrying on the business of receiving money and collection data for customers subject to the obligation of honoring on their current and savings accounts.

### **CLASSIFICATION OF BANKS**

#### **1. Commercial banks**

- ❖ Aim of earning profit
- ❖ Accept deposit – short term (3 to 6 months) loans to traders
- ❖ OD and credit facilities to their customers

#### **2. Investment or industrial banks**

- ❖ Accept long term deposits
- ❖ Credit requirements of industries by extending LT loans
- ❖ Sale and purchase of shares and debentures

#### **3. Foreign exchange banks**

- ❖ Foreign trade
- ❖ Main function is to discount, accept, and collect foreign bills of exchange.
- ❖ Sell foreign currency

#### **4. Agricultural banks**

- ❖ Credit to farmers, ST, MT & LT loans
- ❖ Two types of banks: a. Agriculture Co-operative Banks,
- ❖ Land Mortgage Banks
- ❖ Agricultural co-operative banks are mainly for short periods.

#### **5. Savings banks**

- ❖ Encourage small savers
- ❖ Accept small sums as deposits
- ❖ Encourage poor and middle class people

#### **6. Co-operative banks**

- ❖ Helping among the members
- ❖ Functions: loans, deposits, banking accounts

#### **7. Central bank**

- ❖ Control, regulate and stabilize the banking and monetary system of the country.
- ❖ Central Bank, Reserve Bank or Monetary Authority is  
Issue the currency, (b) regulate the money supply (c) controls the interest rates

### **BANKING REGULATION ACT, 1949**

#### **Introduction of Banking Regulation Act**

The act came into on March 16<sup>th</sup> 1949. It relates to various aspects banking in India. The main objective of the banking regulation act is to ensure sound banking through regulation covering the opening of branches and the maintenance of Liquid assets.

The banking regulation act 1949 is legislation in India that states all banking firms will be regulated under this act. There are total 55 sections under the banking regulating act. Initially the law was only applicable to banks, but after 1965 it was amended to make it applicable to co-operative banks and also to introduce other changes. This act gives power to the RBI to exercise control and regulate banks made supervision.

### **The objective of Banking Regulation Act, 1949**

1. Provide specific legislation containing comprehensive provisions, particularly to the business of banking in India
2. Prevent such bank failures by prescribing minimum capital requirements
3. Ensure the balanced development of banking companies
4. Give powers to RBI to approve the appointment, reappointment, and removal of the chairman, directors, and officers of the banks
5. Safeguard the Interests of Depositors
6. Facilitate strengthening the banking system of the country
7. Impose restrictions on Indian Investors
8. To ensure new branches are licensed

### **The salient features of this Banking Regulation Act 1949 are as follows.**

#### **1) Trading prohibition**

Banks cannot buy, sell or barter goods, directly or indirectly.

#### **2) Non-banking asset**

A bank cannot hold any immovable property beyond seven years of the date of acquisition.

#### **3) Minimum Capital**

A bank should have the cash reserve minimum paid-up capital as stipulated by the Reserve bank of India.

#### **4) Commission Payment**

A bank cannot pay in excess of 2.5% shares in the form of commission, discount, remuneration or brokerage

#### **5) Dividend Payment**

A bank cannot pay any dividend on shares till its capital expenses are cleared.

### **Power of RBI to Regulate and Control Banks as per Banking Regulation Act-1949**

1. Licensing
2. Opening of New Branches
3. Control over the management
4. Control over Loan.
5. Returns to be submit by the banks to the RBI
6. Account and Balance sheet

7. Auditing
8. Liquidation
9. Bank Profession is a Staff
10. Cash Reserve
11. Reserve Fund
12. Amalgamation
13. Control over Co-operative Banks

## **ROLL OF BANKS AND ECONOMIC**

### **Role / Importance of Banks (or)**

#### **Economic and Monetary Implications of Modern Banking Operations**

1. Deposit mobilization
2. Credit creation
3. Monetization of Economy
4. Encouragement to Right type of Industries
5. Developing of Agriculture
6. Implementation of bank rate or monetary policy
7. Balanced regional development
8. Promote industrial development
9. Finance to Government
10. Bankers as employers
11. Innovations and diversification of business

#### **Economic Development through Banking System**

1. Employment
2. Income
3. Savings
4. Investment
5. Production
6. Consumption
7. Industrial Development

## **ROLE OF CENTRAL BANKING**

### **Management Persons of Central Banking**

1. Chairman & Managing Director – Rajeev Rishi
2. Executive Director – 2 person – B.K. Divakara, P. Ramana Murthy
3. Director – GOI – Dr.Saurabh Garg,  
RBI – Shri Shekhar  
Shareholder – Shri Supratim  
Shareholder – Shri Ketul
4. Part Time Non Official Director under Chartered Account Category - N. Nityananda

## **What is Role of Central Bank?**

A **central** bank is an independent national authority that conducts monetary policy, regulates banks, and provides financial services including economic research. Its goals are to stabilize the nation's currency, keep unemployment low, and prevent inflation.

## **Features and Characteristics of Central Bank**

### **1. Note Issue**

The fundamental highlight of a central bank is the issue of money notes in the nation. The Central bank controls the volume of cash in the nation as per prerequisites of business and the overall population.

### **2. Investor's Bank**

The Central bank additionally goes about as the financier to the booked and different banks. It is the caretaker of the money stores of the business banks. Each timetable bank is obliged to keep up at the very least 5% of its aggregate request and time liabilities with the Central bank.

### **3. Loan specialist of Last Resort**

The Central bank is the moneylender of final resort. It keeps up a nearby association with the business banks. It assumes the liability of meeting straightforwardly or by implication, all sensible requests for convenience from the business banks, and other credit organizations under specific terms and conditions.

### **4. Controller of Credit**

One of the critical capacities of Central bank is to direct and control the credit in the nation as indicated by the differing monetary circumstances. Bank rate approach and open business operations are the direct techniques for national bank for controlling credit.

### **5. Adviser to the Govt.**

It additionally acts an adviser to government on money related and financial matters.

### **6. Clearing House:**

The Central bank goes about as the clearing house for different banks. Under this capacity the Central bank encourages the settlement of bills and checks of different banks by setting off requests of one against other and in this way helps the working of the saving money framework so easily without genuine money exchanges.

### **7. Controller of Foreign Exchange**

The Central bank is in charge of the administration of outside trade & keeping up outer estimation.

## **Nature of Central Banking**

1. The Central Bank does not aim at profits but aims at national welfare.
2. The Central Bank does not compete with the member banks.
3. The Central Bank has special relationship with government and with commercial banks.
4. The Central Bank is generally free from political influence.

5. The Central Bank is the apex body of the banking structure of the country.
6. The Central Bank should have overall control over the financial system.

**Eight major functions of central bank in an economy are as follows:**

1. Bank of Issue,
2. Banker, Agent and Advisor to Government,
3. Custodian of Cash Reserves,
4. Custodian of Foreign Exchange Reserves
5. Lender of the Last Resort,
6. Clearing House,
7. Controller of Credit,
8. Protection of Depositor's Interest \_

**RESERVE BANK OF INDIA**

- Established on 1<sup>st</sup> April 1935
- Aim development strategy of the Govt.
- The central bank was founded in 1935 to respond to economic troubles after the First World War.
- RBI set up – recommendations of the Hilton Young Commission.
- Submitted report in 1926
- First office at Kolkatta, Bengal – then permanently move to Mumbai in 1937.
- Originally set up as a shareholders' bank, it's owned by the Govt. of India since Its nationalization in 1949.

**RESERVE BANK OF INDIA FUNCTIONS**

**1. Banker to the Government**

As banker to the government the Reserve Bank manages the banking needs of the government. It has to-maintain and operate the government's deposit accounts. It collects receipts of funds and makes payments on behalf of the government. It represents the Government of India as the member of the IMF and the World Bank.

**2. Issue of Bank Notes:**

The Reserve Bank of India has the sole right to issue currency notes except one rupee notes which are issued by the Ministry of Finance. Currency notes issued by the Reserve Bank are declared unlimited legal tender throughout the country.

**3. Banker's to banks**

The Reserve Bank performs the same functions for the other commercial as the other banks ordinarily perform for their customers. RBI lends money to all the commercial banks of the country.

#### **4. Agent and Adviser of the government**

The RBI acts as banker to the government the Central as well as state governments. ... In return, the governments keep their cash balances on current account deposit with the RBI. As government's banker, the RBI provides short-term credit to the government to meet any shortfalls in its receipts over its disbursements.

#### **5. Acts as national clearing house**

These works include the function of clearinghouse arranging credit for agriculture (which has been transferred to NABARD) collecting and publishing the economic data, buying and selling of Government securities (gilt edge, treasury bills etc) and trade bills, giving loans to the Government buying and selling of valuable commodities etc.

#### **6. Acts as national clearing house**

The lender of last resort functions to protect individuals who have deposited funds—and to prevent customers from withdrawing out of panic from banks with temporary limited liquidity. Commercial banks usually try not to borrow from the lender of last resort because such action indicates that the bank is experiencing a financial crisis.

#### **7. Controller of the Credit**

The RBI undertakes the responsibility of controlling credit created by commercial banks. RBI uses two methods to control the extra flow of money in the economy. These methods are quantitative and qualitative techniques to control and regulate the credit flow in the country.

#### **8. Custodian of Foreign Reserves**

For the purpose of keeping the foreign exchange rates stable, the Reserve Bank buys and sells foreign currencies and also protects the country's foreign exchange funds. RBI sells the foreign currency in the foreign exchange market when its supply decreases in the economy and vice-versa.

#### **9. Exchange Management and Control:**

One of the essential central banking functions performed by the Bank is that of maintaining the external value of rupee. The external stability of the currency is closely related to its internal stability the inherent economic strength of the country and the way it conducts its economic and monetary affairs.

#### **10. Fight Against Economic Crisis**

As the world economy enters an unprecedented crisis caused by the COVID-19 pandemic, and policymakers in Washington and other global capitals prepare record fiscal stimulus plans, stakeholders should heed an important lesson from the last financial downturn in 2008: Recovery is only possible through coordinated global action.

## Credit Control measures of Central Bank

Credit control is an important tool of the monetary policy used by Reserve Bank of India (central bank) to control the demand and supply of money and flow of credit in an economy. RBI keeps control over the credit created by commercial banks.

### Methods of Credit Control

#### **Quantitative or General Methods**



1. Bank Rate
2. Open Market Operations
3. Variable Cash Reserve Ratio

#### **Qualitative or Selective Methods**



1. Credit Rationing
2. Direct Action
3. Moral Persvasion
4. Publicity
5. Regulation of Consumer's Credit
6. Regulating the Marginal Requirements on Security Loans



## Unit - III

Types of Bank Accounts - Savings Account, Current Account - Types of Deposit Account – Fixed and Recurring Deposits Account – Procedure for opening of an Account – Types of customers (Individuals, firms and Companies) – Importance of CRM – Customer grievances and redressal – Ombudsman.

### Types of Bank Accounts and Types of Deposit Account

#### 1. SAVINGS ACCOUNT AND SAVING DEPOSIT - சேமிப்பு கணக்கு

Savings Accounts are the most popular kind of individual accounts for personal purpose of saving your investments and getting interest rates. Savings account provides cheque facility along with flexibility for deposit and withdrawal of funds from your account.

- ❖ This account will be considered as normal banking service.
- ❖ For this account, maintenance of minimum balance is not required.
- ❖ ATM card/ ATM cum Debit card, Rupay card will be given for the account holders.
- ❖ There are going to be no limit on the number of deposits that can be made in a month but, account holders will be allowed most of 4 withdrawals in a month, which includes ATM withdrawals also.
- ❖ The above facilities will be given without any charge. There will be no charge levied for non-operation/ activation of in-operative basic saving bank deposit account.
- ❖ For this account, overdraft facility will be provided up to Rs. 5000/-.
- ❖ Two free cheque books will be issued per year.
- ❖ Internet banking facility will be provided without any charge.
- ❖ Balance enquiry, NEFT, Bill payment, Mobile recharge etc., are provided through mobile phones.
- ❖ Students can open this account with zero balance by providing the required documents.

#### Features of Savings Account

1. Min. 500 Rs.
2. 25 withdrawals
3. Less min. Bal. Rs.10 service charges
4. Withdrawal exceeds
5. The amount exceeds
6. Savings interest  $\frac{1}{2}$  %

#### 2. CURRENT ACCOUNT AND CURRENT DEPOSIT

Current bank accounts are very popular among companies, firms, public enterprises, businessmen who generally have higher number of regular transactions with the bank. Current account is a bank account for people who run businesses. It is designed for carrying out day-to-day business transactions easily.

- ❖ Any resident individual- single accounts, two or more individuals in joint accounts, Associations, Limited companies, Religious Institutions, Educational Institutions, Charitable Institutions, clubs etc., are eligible for this account.
- ❖ Payments can be done unlimited number of times.

- ❖ Funds can be remitted from any part of the country to the corresponding account.
- ❖ Overdraft facility will be available.
- ❖ Internet banking facility is available.

### **Special Features**

- a. Convenience
- b. Collect the bills, drafts, cheques etc
- c. No charges
- d. Certain privileges:
  - i) Third party cheques with endorsement deposited in the current account
  - ii) OD Facilities
  - iii) The loans and advances granted

### **3. RECURRING ACCOUNT AND RECURRING DEPOSIT -**

Recurring deposits also known as RD accounts who wish to invest an average amount of their savings on a monthly basis. These accounts gain interest on the amount available in your account. This account is specially designed for the working public who don't want to invest a large amount at one instance.

- ❖ Any resident individual- single accounts, two or more individuals in joint accounts, Associations, clubs, Institutions/Agencies specifically permitted by the RBI etc., are eligible to open this account in single/joint names.
- ❖ Periodic/Monthly installments can be for any amount starting from as low as Rs.50/- onwards.
- ❖ Account can be opened for any period ranging from 6 months to 120 months, in multiple of 1 month.
- ❖ The amount selected for installment at the start of the scheme will be payable every month.
- ❖ The number of installments once fixed, cannot be altered.
- ❖ Approved rate of interest is compounded every quarter.
- ❖ The amount after maturity will be paid to customers one month after the deposit of the last installment.
- ❖ Pass book will be given to the depositor.
- ❖ TDS will be applicable on the interest, as per the latest changes in the Income Tax Act on cumulative deposits also.

### **4. FIXED DEPOSIT ACCOUNT AND FIXED DEPOSIT -**

Fixed Deposits popularly known as FD are available at various schemes with tenure from 7 days to 10 years. This account is specially designed who want to deposit their savings for a long term to gain good rate of interest. But the interest rate on these accounts varies from bank to bank. Term Fixed denotes the period of maturity or tenure.

- Banks accepts deposits from customers varying from 7 days to a maximum of 10 years.
- The minimum amount that can be deposited under this scheme is Rs. 5 lakh for a period of 7-14 days.
- Interest rate differs from bank to bank depending upon the tenure of the deposits & as when the bank changes the rate.
- Additional interest of 0.50% is offered for senior citizens on deposits placed for a year & above.

## **Features**

- 1) It's a negotiable instrument not transferred
- 2) it can assigned
- 3) Cheques cannot be drawn against FD receipts
- 4) Duly signed by the customer
- 5) If lost, money can be claimed by court's orders.
- 6) It made jointly by many persons
- 7) Limitation period

## **5.DEMAT ACCOUNT**

Shares and securities which can be held in electronic format constitute the DEMAT account. The DEMAT account also stands for Dematerialized Account.

Given below the points that need to be known by a candidate regarding the DEMAT Account:

- There are only two depository organisations which manage this type of bank account in India. This includes: National Securities Depository Limited and Central Depository Services Limited
- This helps facilitate easy trade of bonds and shares
- Helps in conducting stress free transaction of shares
- KYC is required for opening the DEMAT Account
- Transaction cost is reduced
- Traders can work from anywhere
- The transfer of securities can be done with reduced paperwork's

## **PROCEDURE FOR OPENING OF AN ACCOUNT**

### **I. MINOR**

**Precautions to be taken by a banker:**

1. Opening the account
2. Date of Birth
3. Loan to a Minor
4. Guarantees
5. Minor as a party to a negotiable instrument. Sec. 26
6. Minor as a partner. Sec. 30 (7)
7. Minor as an Agent
8. Minor as a Witness
9. Safe Custody Articles
10. Stock and Shares

### **II. MARRIED WOMEN**

**Precautions to be taken by a banker:**

1. Name and address of the husband
2. Operate the account only sufficient balance
3. Not grant an OD
4. Advance agreement with husband
5. Before granting loan or OD better for the banker to require her to sign a “**Free Will**”

clause.

### **III. LUNATICS**

#### **Precautions to be taken by a banker:**

1. Not opening a/c – if knowing
2. Customer who was sane – when he knows immediately close the a/c
3. If banker suspending

### **IV. TRUSTEES**

#### **Precautions to be taken by a banker:**

1. Trust deed
2. Rights and duties of the trustees
3. The beneficiary and the extent of benefits due
4. Borrowing powers
5. Duration of the trustees
6. Identification of the trust property
7. The value of the trust properly
8. The loan granted – signed by all the trustees
9. Insolvency of the trustee – not affect his position
10. Letter of appointment before operate the account
11. Cheque drawn by trust must contain the seal of the trust
12. Specimen signature of the trustees

### **V. PARTNERSHIP FIRM**

#### **Precautions to be taken by a banker:**

1. Number of Partners
2. Title of firm's a/c
3. Opening of an account
4. The partnership letter or mandate
  - a. Name and address
  - b. Nature of business
  - c. Name of the partner who operate the a/c
5. Revocation(withdraw) of authority to operate the account
6. Delegation of authority
7. Cheque endorsed by a partner in his favour
8. Implied authority of a partner
9. Admission of a new partner
10. Insolvency of a partner
11. Retirement of a partner
12. Lunacy of a partner
13. Alterations in the constitution of a Firm

### **VI. JOINT STOCK COMPANIES**

#### **Steps to be taken in opening an Account**

1. Certificate of incorporation – Registrar of Joint Stock Companies
2. Memorandum and Articles of Association copies
3. Certificate of commerce business from Registrar certifying
4. B/S and P&L a/c copies
5. Newly started companies look the Articles of Association
6. Resolution of the Board appointing

### **Precautions to be taken by a banker:**

1. The borrowing powers of the company
2. Provisions in the Company's Act, 1956 – Board of Directors
3. Delegation of powers
4. Ultra vires the Memorandum
5. Winding up – receiving the notice of resolution
6. Sec.125 of the Companies Act, 1956 gives a list of charges requiring registration

## **IMPORTANCE OF CRM**

### **What is CRM?**

CRM stands for “**Customer Relationship Management**” and refers to all strategies, techniques, tools, and technologies used by enterprises for developing, retaining and acquiring customers.

At its **simplest** definition, a **CRM** system allows businesses to manage business relationships and the data and information associated with them

## **NEED AND IMPORTANCE OF CRM**

### **1. Better service to customers**

CRM provides more avenues for customers to communicate and explain their needs to the organization through numerous contact points. Customers get increased satisfaction and a feeling of being special and important because of the increased personalization of services and customization of goods offered to them

### **2. Customization of market offerings**

Companies can customize a product or service depending on the data available with the firm. The firm can facilitate customer-company interaction through the company contact centre and web site. Such interactions help develop customized products.

### **3. Reduction in the customer defection rate**

CRM emphasizes on training and development of the employees to become more customer oriented. Due to CRM training and development, employees show care and concern towards the valuable customers; therefore, the customer defection rate may be reduced to a great extent.

### **4. Increase and improvement in long-term relationships**

Some firms treat their customers as partners. Firms solicit the help of the customers to design new products or to improve their services. If the customer gets involved with the firm, they are more likely to remain with the firm.

### **5. Increase in customer equity**

CRM increases customer equity. Firms focus the marketing efforts more on the most valuable customers (MVCs). The main aim of CRM is to produce high customer equity. Customer equity is the sum of lifetime values of all customers. More focus on MVCs will enable a firm to increase the customer equity.

## **6. Competitive advantage**

The firms that adopt CRM get competitive advantage in the market. They can face the competition with much ease. Competitive advantage helps in generating higher returns on investment.

## **7. Building and maintaining corporate image**

The image of the firm also gets enhanced. Loyal customers become evangelists. The evangelists spread a good word about the company and its products. This enables a firm to get additional customers to its fold.

## **8. Higher return on investment**

Due to CRM, a company gains a position to generate higher returns on investment. This is because of the repeat purchases on the part of the loyal customers. The company also makes money through cross selling. The higher return on investment increases the shareholders' value.

## **CUSTOMER GRIEVANCES AND REDRESSAL**

### **What do you mean by grievance redressal?**

While the term "**Grievance Redressal**" primarily covers the receipt and processing of complaints from citizens and consumers, a wider **definition** includes actions taken on any issue raised by them to avail services more effectively. ...

**1. Types of Complaints:** The customer complaint arises due to the attitudinal aspects dealing with customers and inadequacy of the functions/arrangements made available to the customers or gaps in standards of services expected and actual services rendered.

**1.1. Complaints related to Deposit Accounts-** The complaints can be related to deposit accounts of the customers such as

1. Refusal to open savings accounts without valid reason.
2. Refusal / delay in furnishing of statement of accounts.
3. Non-issue of cheque books.
4. Insisting the account holders to drop the cheques / cash in drop boxes.
5. Cheques put up in drop box not credited to the correct accounts.
6. Wrongful dishonour of cheques.
7. Debits for unsuccessful ATM Transactions.
8. Non- issue of ATM cards.
9. ATMs not working / frequent shut-downs; etc.

**2.2 Complaints related to Remittances-** The banking customer complaints can also be related to remittances such as:

- (i) Delay in collection of outstation cheques.
- (ii) Delay in issue of duplicate drafts.
- (iii) Delay in credit of proceeds remitted to customer's accounts.
- (iv) Levying of excess collection charges.
- (v) Failure to provide immediate credit of cheques as per RBI guidelines.
- (vi) Non- issue of DD / Pay order / Banker's cheque.

## **OMBUDSMAN**

### **What is ombudsman?**

An **ombudsman** is an official, usually appointed by the government, who investigates complaints (usually lodged by private citizens) against businesses, financial institutions, or government departments or other public entities, and attempts to resolve the conflicts or concerns raised, either by mediation or by making ...

### **Definition Ombudsman**

The typical duties of an **ombudsman** are to investigate complaints and attempt to resolve them, usually through recommendations (binding or not) or mediation. In many countries where the **ombudsman's** responsibility includes protecting human rights, the **ombudsman** is recognized as the national human rights institution.

### **Functions of the Ombudsman**

1. The Ombudsman shall perform all or any of the following functions, namely:
  - i. Investigate into any allegation contained in a complaint or on a reference from Government, or that has come to the notice of the Ombudsman
  - ii. Enquire into any complaint in which corruption or maladministration of a public servant or a Local Self Government Institution is alleged
  - iii. Where the irregularity involves a criminal offence committed by a public servant, the matter shall be referred to the appropriate authority for investigation
  - iv. Where the irregularity causes loss or inconveniences to a citizen, direct the Local Self Government Institution to give him compensation and to reimburse the loss from the person
  - v. Responsible for the irregularity;
  - vi. Where the irregularity involves loss or waste or misuse of the fund of the Local Self Government Institution, realise such loss from those who are responsible for such irregularity, and
  - vii. Where the irregularity is due to omission or inaction cause to supply the omission and to rectify the mistake
2. In addition to the functions enumerated in sub-section (1), the Ombudsman may pass interim order restraining the Local Self Government Institution from doing anything detrimental to the interest of the complainant if it is satisfied that much loss or injury will be caused to the complainant due to the alleged act
3. The Ombudsman may by order, impose penalty in addition to compensation if it is of opinion that the irregularity involves corrupt practice for personal gain.

## Unit - IV

Negotiable instruments – Promissory Note – Bills of Exchange, Cheque, Draft – Definitions, Features – Crossing – Endorsement – Material Alteration – Dishonour of Cheques – Paying Banker – Rights, Duties and Statutory Protection to Paying Banker – Collecting banker – Rights and Duties.

### Negotiable Instrument-1881

Negotiable instrument means a Promissory Note Bill of exchange or Cheque Payable either to order or bearer.

#### What do mean by Negotiable Instrument?

A **negotiable instrument** is a signed document that promises a sum of payment to a specified person or the assignee. In other words, it is a formalized type of IOU: A transferable, signed document that promises to pay the bearer a sum of money at a future date or on-demand.

#### Features of Negotiable Instrument

- 1) Easy Transferability- A **negotiable instrument** is freely transferable. ...
- 2) Title- Negotiability confers absolute and good title on the transferee. ...
- 3) Must be in writing- A **negotiable instrument** must be in writing. ...
- 4) Unconditional Order- In every **negotiable instrument** there must be an unconditional order or promise for payment.

### Promissory Note

Written document signature section (4) an Instrument in writing containing an unconditional undertaking signed by the makes to pay a certain sum of money only to a contain person or to the bearer of the instrument.

**1.Drawer 2.Drawee 3.Payee**

(Promissory Note Sample)

<b>Promissory Note</b>	
_____	_____
Place of residence	Date
 I, _____ (Maker's name) _____ agree and promise to pay _____ (Payee's name) _____ or order the sum of (€ _____) Euros for value received, with interest at the annual rate of ...% payable on/after _____ (Date) _____.	
_____	
(Maker's signature)	



## Features of Promissory Note

1. It must be in writing
2. The Promise to pay must be express
3. The promise to pay must be unconditional
4. It must be signed by the maker
5. Promise must be to pay a certain sum
6. The promise should be to pay money and money only

## Bill of Exchange

Section.5. an Instrument in writing containing an unconditional order signed by the maker, directing a certain person to pay a certain sum of money only to or to order of a certain person or to the bearer of the Instrument.

**Bill of exchange** means a **bill** drawn by a person directing another person to pay the specified sum of money to another person. ... For **example**, X orders Y to pay Rs.50,000 for 90 days after date and Y accepts this order by signing his name, then it will be a **bill of exchange**.

- 1.Drawer
- 2.Drawee
- 3.Payee

## Features of Bill of Exchange

1. It must be writing
2. It must contain an unconditional order to pay
3. It must be signed by the drawer
4. Pay money and money only
5. Three parties to the instrument
  - 1.Drawer
  - 2.Drawee
  - 3.Payee
6. To pay certain sum of money

## Definition of Cheque

Cheque refers to a negotiable instrument that contains an unconditional order to the bank to pay a certain sum mentioned in the instrument, from the drawer's account, to the person to whom it is issued, or to the order of the specified person or the bearer.

## MODEL CHEQUE



# Bearer Cheque

**HDFC BANK**  
Payee Name: **ANKIT SHARMA**  
Amount: **₹ 37,000/-**  
Valid for 3 months Only  
Or Bearer  
Authorized Signatory  
Please sign above / परिसर में

## Features of Cheque-

1. It is an Instrument in Writing
2. It must be drawn on a specified Banker
3. It must contain an unconditional order
4. It must contain an order to pay a certain sum of money and money only
5. It should contain the signature of the drawer
6. The payee must be certain
7. Not otherwise payable than on demand
8. The pay must be certain person

## Parties to a Cheque.

1. Draweer
2. Drawee
3. Payee

## Types of Cheque

### 1. Bearer Cheque

A Cheque payable to certain person (or) to the bearer is known a bearer cheque

### 2. Order Cheque

A Cheque payable to a certain person (or) to his order is an order which can be negotiated by (Endorsement).

## What do mean by Crossing of Cheque?

A **crossed** check is any check that is **crossed** with two parallel lines, either across the whole check or through the top left-hand corner of the check. This double-line notation signifies that the check may only be deposited directly into a bank account.

## Types of Crossing Cheque

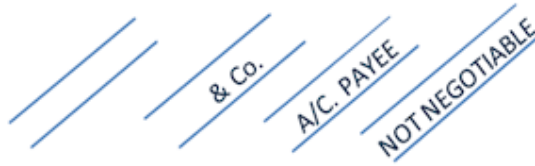
### 1.Open Cheque or General Cheque

### 2.Special Crossing -

#### 1.Open Crossing Cheque or General Crossing Cheque

Where a cheque bearers across its face an addition of the words, and company (or) any abbreviation Thereof (& Co) between TWO Paraller transverse lines (or TWO simple Paraller transverse line written without the words.

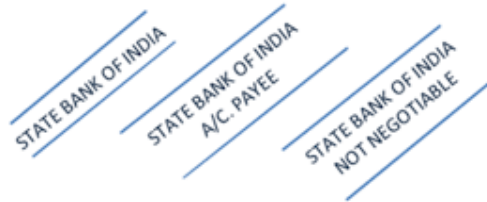
#### Specimen Of General Crossing



### 2.Special Crossing

Where a Cheque bearer across its face an additional of the name of a banker with (or) without words not negotiable

#### Specimen Of Special Crossing



## Features Of Special Crossing.

- When a particular bank's name is written in between the two parallel lines.
- The bank makes payment only to the banker whose name is written in the crossing.
- In addition to the word **Bank**, the words "*A/c. Payee Only*", "*Not Negotiable*" may also be written.
- Drawing of two transverse and parallel lines is *not necessary* in case of a special crossing.
- The banker upon whom it has been drawn will make the payment only to that banker in whose favor it has been crossed.

## **ENDORSEMENT**

When the maker or account holder of a negotiable instrument signs the same otherwise as such maker, for the purpose of negotiation, on the back or face thereof or on a slip of paper annexed there to.

## **KINDS OF ENDORSEMENT**

### **1.Endorsement in Blank**

It the endorser just puts his signature without specifying the name of the endorsee, The endorsement is said to be blank.

### **2.Endorsement in full or special**

It the name of the endorser is specified in whose favour it is being endorsed along with the signature of the endorser.

### **3.Conditional Endorsement**

It is an endorsement under which the endorser lays down some condition to be fulfilled by the payee before making the payment.

### **4.Restrictive Endorsement**

Restrictive endorsement by written words restricts the right of further negotiation. The banker should pay the amount to a particular endorsee only.

### **5.Persons entitled to Endorse**

## **What is a Dishonoured cheque?**

So on presenting a **cheque** if the bank refuses to pay the amount mentioned on the **cheque** to the payee due to certain reasons then it is said to be a **dishonored cheque**. **Dishonoured cheque** cannot be further be used.

## **Reasons for Dishonour of Cheque**

1. If the cheque is overwritten. Know 'How to write a Cheque
2. If the signature is absent or the signature in the cheque does not match with the specimen signature kept by the bank.
3. If the name of the payee is absent or not clearly written.
4. If the amount written in words and figures does not match with each other.
5. If the account number is not mentioned clearly or is altogether absent.
6. If the drawer orders the bank to stop payment on the cheque.
7. If the court of law has given an order to the bank to stop payment on the cheque.
8. If the drawer has closed the account before presenting the cheque.
9. If the fund in the bank account is insufficient to meet the payment of the cheque.
10. If the bank receives the information regarding the death or lunacy or insolvency of the drawer.
11. If any alteration made on the cheque is not proved by the drawer by giving his/her signature.
12. If the date is not mentioned or written incorrectly or the date mentioned is of three months before.

## **PAYING BANKER**

### **What do you mean by paying banker-**

The banker on whom the cheque is drawn or the banker who is required to pay the cheque drawn on him by a customer is called the paying banker

### **Rights of Paying Banker-**

- i) Bankers right of lien-
- ii) General Lien
- iii) Special Lien
- iv) Banker indirect lien
- v) Bankers Right to Set off
- vi) Bankers Right to close the customer's account
- vii) Right to Charge Interest

### **Duties of Paying Banker**

- i) Banker duty to honour the cheques
- ii) Sufficient Cash Balance
- iii) Completeness of Cheque
- iv) Proper Payment
- v) Time for withdraw of cash
- vi) Time Required for
- vii) No Legal Restriction

### **Precautions to be taken before honouring a cheque or Statutory Protection to Paying Banker**

1. The cheque should be on a proper form
2. The cheque is open or crossed
3. Mutilated cancelled cheque
4. State Cheque
5. Post-dated Cheque
6. Difference in words and figure in cheque -
7. Fraudulent raising of the amount -
8. Undated cheque
9. Sufficient balance in the account
10. Drawer Signature
11. Endorsement

## RELATIONSHIP BETWEEN A BANKER AND CUSTOMER

### Who is banker?

The term banking' has been defined as accepting for the purpose of lending or investment, of deposit of money from the public repayable on demand or withdraw able by cheque, draft or order.

### Who is Customer?

Customer A **customer** is a person who has some sort of account, either deposit or current account, with the **banker**.

Sl.No	Transactions	Bank	Customer
1	Deposit in Bank	Debtor	Creditor
2	Loan from	Creditor	Debtor
3	Safe Custody	Bailee -	Bailor
4	Locker	Lessor	Lessee-
5	Collection of Cheque-	Agent	Principal
6	Purchase of Draft –	Debtor	Creditor
7	Payee of a Draft	Trustee	Beneficiary
8	Mortgage	Mortgage -	Mortgagor -
9	Standing Instruction	Agent	Principal
10	Money deposited but instruction not given for disposal	Trustee	Beneficiary

### Meaning of Collection Banker

- ❖ The banker who collects the cheques and bills on behalf of its customers
- ❖ Every crossed cheque is necessarily to be collected through any bank which is known as collecting banker.
- ❖ While collecting the cheques of a customer the banker may act in the capacity of either as a holder for value or as an agent of the customer.
- ❖ For collection the collecting banker will charge commission

### THE DUTIES AND RESPONSIBILITIES OF A COLLECTING BANKER ARE DISCUSSED BELOW:

1. Due care and diligence in the collection of cheque.
2. Serving notice of dishonor.
3. Agent for collection.
4. Remittance of proceeds to the customer.
5. Collection of bill of exchange.

6. He must exercise reasonable diligence and care and diligence in hi/hers collection work. He must observe utmost care while presenting customer's cheque.
7. If the cheque is delayed to be submitted by the banker, a customer may suffer because of the drawer insolvency or insufficiency of funds in the drawee's account. Therefore, the collecting banker must present the cheque for collection without delaying it.
8. Where the cheque is dishonored, the collecting banker must necessarily give notice to the customer and inform the customer without any delay.
9. In the event of drawing a cheque at a location where the banker is not a member of the 'clearing-house,' another banker who is a member may be used to collect the check for the purpose collecting customers' cheques. The banker is a substituted agent in such a situation.
10. Where the collecting banker has realized the cheque, he/she must pay the interest to the customer as per the customer's instruction.