

DEBT RECOVERY AGENT



Knowledge Partner



Skilling India for an Inclusive Growth
Partner N.S.D.C

Corporate Office Address:
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Kolkata - 700064

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INTRODUCTION

Debt Recovery Agents (DRA) are representatives appointed by banks and lawful debt collection agencies to act as their agents and make calls or visit debtors to collect payments on any kind of past due bill without violating the regulations implemented by RBI.

Debt recovery agents are also responsible for providing debtors every important detail of their loan's terms & conditions and guide them accordingly for the payment.

A Debt Recovery Agent is required to have good interpersonal and problem solving skills. The individual must be self-driven and organized with their work and act with integrity when performing multiple tasks for the customers.

With the recent increase in customer complaints against the unethical practices by the DRAs engaged by the banks and also heightened media coverage on these issues, have forced the banks to revisit the ways DRAs were recruited. All the financial institutions have now realised that there is need to recruit trained professionals as DRAs, to avoid unnecessary media and regulatory attention, which in fact, also results into bad publicity for the organisation.

The scope of DRAs have increased with new banks and other financial institutions coming into existence and also with the surge in consumerism which has increased the demand for loans in the recent years.

This module focuses on the functions of a DRA and also provides inputs on how a DRA should operate within the existing rules and regulations of the country. This module also provides inputs on the interpersonal skills that a DRA must possess in order to perform his responsibilities effectively.

Unit 1: Basics of Banking

➤ After completing this unit, the student will be able to:

- Know the various types of banks present in India
- Understand the functions of RBI
- Understand the functions of Commercial Banks.
- Recognise the relationships between a Banker and the customers.



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BANKING BASICS

Origins of Banking:

The history of Banking started with simple money lending and bartering of agricultural commodities by the farmers to the traders in exchange of other commodities. Money lending activities existed even in ancient civilisations like India, China, Assyria, Ancient Greece and Rome. Modern banking started in medieval and early Renaissance Italy, where Banking families opened branches in other parts of Europe also. However, after the industrial revolution in Europe in the 17th century, there was an increasing need for safe and convenient mode of money transfer across the globe since large scale trading began between European countries and their colonies like India, China, United States, etc. There was need for convenient financing options also. These necessities triggered the growth of Central Banks as regulating authorities and also establishment of numerous large banks with multinational presence.

In India, The first bank was established in 1786 and was called The General Bank of India. The Bank of Bengal/Calcutta (1809), Bank of Bombay (1840) and Bank of Madras (1843) were subsequently established by The East India Company. These banks were collectively known as Presidency Banks. The first bank to be established and run completely by the Indians was Allahabad Bank, which was established in 1865. Punjab National Bank was set up in 1894 and Bank of India, Canara Bank, Indian Bank, Bank of Baroda, Central Bank of India and Bank of Mysore were all established between 1906 and 1913. All the Presidency Banks were amalgamated and the Imperial Bank of India was formed in 1921, which was later nationalised and renamed the State Bank of India in 1955.

The Reserve Bank of India was established in 1935, as the regulating authority of the Indian Banking industry. In 1960, 1969 and 1980, several banks were nationalised by the Indian Government, to facilitate the development of the Indian economy. In the early 1990s, Indian economy was liberalised substantially and licences were granted to several private banks like UTI Bank (now Axis Bank), ICICI Bank, HDFC Bank, etc.

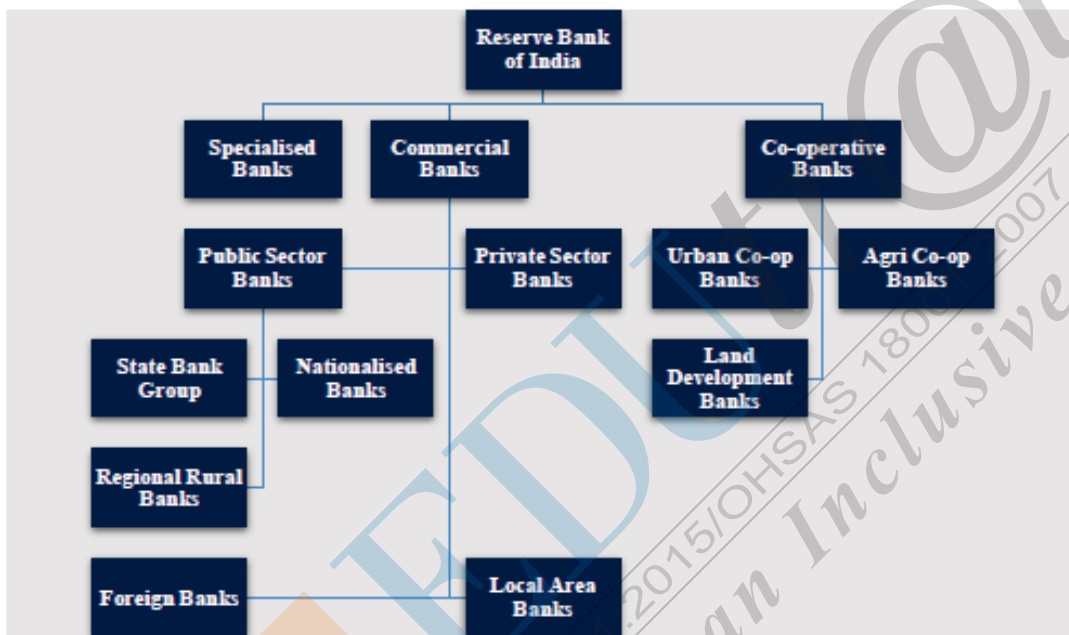
In August 2015, RBI grant “in-principle” approval to 11 applicants to set up Payments Banks. Payments Bank is a type of non-full service bank which can only receive deposits and provide remittances and cannot carry out lending activities. This type of banks were was created to spread banking among the still large unbanked population in India, particularly in the rural areas.

Banking Structure in India:

In India, Banks can be classified into various following categories which are discussed below:

- a) Central Bank (RBI)
- b) Specialised Banks
- c) Commercial Banks
- d) Co-operative Banks

The Structure can be described below by a diagram:



Banking Structure in India

Central Bank:

As its name signifies, a bank which manages and regulates the banking system of a particular country is called Central Bank. It provides guidance to other banks whenever they face any problem (that is why the Central Bank is also known as a banker's bank) and maintains the deposit accounts of all other banks. Central Banks of different countries are Reserve Bank of India (India), Federal Reserve System (USA), Swiss National Bank (Switzerland), Reserve Bank of Australia (Australia), Bank of England (England), etc.

Specialised Banks:

Those banks which are meant for special purposes. For examples: NABARD, EXIM bank, SIDBI, etc.

National Bank for Agriculture and Rural Development (NABARD): This bank is meant for financing the agriculture as well as rural sector. It actually promotes research in agriculture and rural development.

Export Import Bank of India (EXIM Bank): This bank gives loans to exporters and importers and also provides valuable information about the international market. If an entrepreneur wants to set up a business for exporting products abroad or importing products from foreign countries for sale in India, EXIM Bank can provide the required support and assistance.

Small Industries Development Bank of India (SIDBI): This bank provides loans to set up small scale business units / industries. SIDBI also finances, promotes and develops small-scale industries.

Commercial Banks:

The primary function of commercial banks is to accept deposits from the customer and grant loans. Commercial banks are further classified into four types.

- (a) Public sector Banks
- (b) Private sector Banks
- (c) Foreign Banks
- (d) Local Area Banks



Various Commercial Banks operating in India

(a) **Public Sector Banks (PSB):** The banks where the Government holds majority shareholdings (51% or more shares) are known as PSBs. Almost 72% of the total banking transactions in India are done through PSBs. The Public Sector banks can again be subdivided in the following classes.

- (i) **The State Bank Group**
- (ii) **Nationalised Banks**
- (iii) **Regional Rural Banks**

(i) The State Bank Group: The largest bank in India with over 17,000 branches is the State Bank of India (SBI). There are five associate banks of SBI that use the State Bank of India logo, which is a blue circle, and all use the "State Bank of" name, followed by the regional headquarters' name:



- i. State Bank of Bikaner & Jaipur
- ii. State Bank of Hyderabad
- iii. State Bank of Mysore
- iv. State Bank of Patiala
- v. State Bank of Travancore

It is to be noted that, though the SBI and its subsidiaries are often referred to as a nationalised bank, it is a Public Sector Undertaking (PSU) and not one of the nationalised banks of India.

(ii) Nationalised Banks: According to the IMF (International Monetary Fund), "Nationalisation" is defined as "*the taking of control by the government over assets and over a corporation, usually by acquiring the majority or the whole stake in the corporation*" There are nineteen Nationalised Banks in India at present, which have been taken over and directly controlled by the Indian Government. Till date, nationalised banks have the highest number of branches and also cater to the highest number of customers across all the categories of Banks. Examples of Nationalised banks are Allahabad Branch, Canara Bank, Central Bank of India, Punjab National Bank, Bank of Baroda, etc.

(iii) Regional Rural Banks (RRBs): These banks were established in order to cater and boost the rural economy India. These banks are sponsored by other public sector banks and the share holding pattern is Central Government holding 50%, concerned State Government holding 15% and the sponsoring Bank holding 35% of the total shares. These banks do not offer all the products offered by the other commercial banks and their area of operation is restricted within 3-4 districts only. RRB's perform various functions in following heads

- Providing banking facilities to rural and semi-urban areas.
- Carrying out government operations like disbursement of wages of MGNREGA workers, distribution of pensions etc.

- Providing Para-Banking facilities like locker facilities, debit and credit cards.

Though the RRBs have been created with a view to serve primarily the rural areas of India with basic banking and financial services, they may have branches set up for urban operations and their area of operation may include urban areas too. Examples of RRBs are: Uttar Bihar Gramin Bank, Dena Gujarat Gramin Bank, Odisha Gramya Bank, Baroda Rajasthan Ksethriya Gramin Bank, Allahabad UP Gramin Bank, etc.

(b) Private Sector Banks: In these banks, the majority of stakes are held by the individual or group of persons. The new age Private Banks are known for their technology driven infrastructure and aggressive marketing strategies. They are also known to provide superior service and innovative products which have made these banks immensely popular especially for the younger generation. Examples of Private Sector Banks are Bank of Punjab, Bank of Rajasthan, ICICI Bank, Axis Bank, HDFC Bank, Yes Bank, etc.

(c) Foreign Banks: These banks have their headquarters in a foreign country but they have been granted licence by the RBI to operate their branches in India. These banks generally have their branches in metropolitan cities or State capitals and cater to a select base of wealthy customer group. These banks are known for superior technology driven operations and innovative product and services. Examples of Foreign Banks operating in India are: HSBC, Standard Chartered Bank, Citi Bank, Deutsche Bank, DBS Bank Ltd.etc.

(d) Local Area Banks: These are banks which have been granted licence to operate in a restricted geographical area only. The objective of establishing the local area banks was to enable to mobilization of the rural savings by local institutions and make them available for investments in local areas. Thus, the overall idea was to bridge the gaps in the credit availability in the rural and semi-urban areas, thereby strengthening the institutional credit mechanism in such areas. The Local Area Banks can do all normal banking business but their major function was to finance agriculture and allied activities, small scale industries, agro-industries and trading / non-farm activities in the rural and semi-urban areas. Currently, there are only four Local Area Banks in India which are: Coastal Local Area Bank Ltd., Capital Local Area Bank Ltd., Krishna Bhima Samruddhi Local Area Bank Ltd., Subhadra Local Area Bank Ltd.

Co-operative Banks

Co-operative Banks are nothing but an association of members who group together for self-help and mutual-help. Co-operative Banks in India are registered under the Co-operative Societies Act, 1965 and regulated by the RBI. The management of these banks and also the organisational set-ups are based on the co-operative principles.

It is often observed that these banks are not managed professionally like the other commercial banks. Co-operative Banks are classified into Primary Co-operative Banks or Urban Co-operative Banks, Short Term Co-operative Banks or Agricultural Co-operative Banks and Agricultural and Rural Development Banks or Land Mortgage Banks.

Examples of Co-operative Banks are: Indian Mercantile Co-operative Bank Ltd., The Bihar State Co-operative Bank Ltd., The West Bengal State Co-operative Bank Ltd., Bidar District Central Co-operative Bank Ltd., Amritsar Central Co-operative Bank Ltd., etc.

Additional Info

Payments Bank

*In August 2015, the Reserve Bank of India gave in principle approval for 11 entities to set up **Payments Banks**. The objectives of setting up of payments banks is to further financial inclusion by providing (i) small savings accounts and (ii) payments/remittance services to migrant labour workforce, low income households, small businesses, other unorganised sector entities and other users.*

Scope of activities of Payments Bank:

- *Acceptance of demand deposits. Payments bank will initially be restricted to holding a maximum balance of Rs. 100,000 per individual customer.*
- *Issuance of ATM/debit cards. Payments banks, however, cannot issue credit cards.*
- *Payments and remittance services through various channels.*
- *BC of another bank, subject to the Reserve Bank guidelines on BCs.*
- *Distribution of non-risk sharing simple financial products like mutual fund units and insurance products, etc.*

Deployment of funds

- *The payments bank cannot undertake lending activities.*
- *Apart from amounts maintained as Cash Reserve Ratio (CRR) with the Reserve Bank on its outside demand and time liabilities, it will be required to invest minimum 75 per cent of its "demand deposit balances" in Statutory Liquidity Ratio (SLR) eligible Government securities/treasury bills with maturity up to one year and hold maximum 25 per cent in current and time/fixed deposits with other scheduled commercial banks for operational purposes and liquidity management.*

Functions of Reserve Bank of India

The Reserve Bank of India (RBI) was established on April 1, 1935 in accordance with the provisions of the RBI Act, 1934. RBI was nationalized in 1949 and it is fully owned by the Government of India. RBI was established on the recommendation of the Hilton Young Commission.



RBI's Functions:



1. **Issue of currency notes:** RBI issues currency notes and coins as per the requirement of the economy. It also exchanges or destroys currency and coins that are not fit for circulation. The objective is to give the public adequate quantity of supplies of currency notes and coins and in good quality.

2. **Controlling the monetary policy:** Monetary policy is the process by which the RBI regulates the supply of money in the economy. The objective is to maintain price stability by stabilising the inflation and also promote economic growth of the country. The RBI uses various tools like increasing or decreasing the Repo rates or the rates at which the banks borrow rupees from RBI. Whenever the banks have any shortage of funds they can borrow it from RBI. A reduction in the repo rate will help banks to get money at a cheaper rate. Hence, the banks will also be able to lend at a cheaper rate to the customers, thereby increasing the economic activity in the country. Conversely, when the repo rate increases, borrowing from RBI becomes more expensive. RBI uses many other tools to control the monetary policy, which we will learn later in this module.

3. **Regulator and supervisor of the financial system:** RBI prescribes broad parameters of banking operations within which the country's banking and financial system functions. The objective is to maintain public confidence in the system, protect depositors' interest and provide cost-effective banking services to the public. From time to time, RBI issues guidelines to all the banks in India, defining the norms of conducting their business, keeping in mind the best of interest of the economy and the public. For example, RBI grants licences to new banks to broad base the Indian Banking system. The last full service banks to be granted the licences are IDFC and Bandhan Bank.

4. **Banker to other banks:** RBI maintains banking accounts of all scheduled banks. It helps in maintaining smooth and swift clearing facilities and interbank fund transfers. By just

effecting entries in the books of the RBI, the banks can settle claims against each other without the actual transfer of cash. It also helps in maintaining the statutory reserves as stipulated by the RBI.

5. **Banker to the government:** RBI acts as the banker to the Central Government and also to all the State Governments of India. It accepts and receives payments and also makes payments on behalf of the Government. As a Banker, it also advises the Government on financial matters.

6. **Manager of Foreign Exchange (FOREX) of India:** The RBI controls and manages the foreign exchange market of India in order to facilitate external trade and payment. It also helps to promote orderly development and maintenance of foreign exchange market in India



Functions of the Commercial Banks

The main function of a Commercial Bank is to serve as an intermediary between the savers and the investors. In other words it acts as a bridge between the generators and users of the funds. In addition, the Bank offers a host of other financial services and products also, which can be as follows:

Primary Functions

1. **Accepting Deposits:** A bank accepts deposits from the public in the form of Savings Bank account, Current Accounts and Term Deposits.
2. **Advancing of Loans:** The deposits received by banks are not allowed to remain idle. So, after keeping certain cash reserves, the balance is given to needy borrowers and interest is charged from them, which is the main source of income for these banks.
3. **Credit Creation:** Credit creation is one of the primary functions of commercial banks. When a bank sanctions a loan to the customer, it does not give cash to him. But, a deposit account is opened in his name and the amount is credited to his account. He can withdraw the money whenever he needs.

Thus, whenever a bank sanctions a loan it creates a deposit. In this way the bank increases the money supply of the economy. Such functions are known as credit creation.

Secondary Functions:

The secondary functions of the banks consist of agency functions and general utility functions.

A. Agency Functions

Agency functions include the following:

- i. **Collection of cheques, dividends, and interests:** As an agent the bank collects cheques, drafts, promissory notes, interest, dividends etc., on behalf of its customers and credit the amounts to their accounts.
- ii. Customers may furnish their bank details to corporate where investment is made in shares, debentures, etc. As and when dividend, interest, is due, the companies directly send the warrants/cheques to the bank for credit to customer account.
- iii. **Payment of rent, insurance premiums:** The bank makes the payments such as rent, insurance premiums, subscriptions, on standing instructions until further notice. Till the order is revoked, the bank will continue to make such payments regularly by debiting the customer's account.
- iv. **Dealing in foreign exchange:** As an agent the commercial banks purchase and sell foreign exchange as well for customers as per RBI Exchange Control Regulations.
- v. **Purchase and sale of securities:** Commercial banks undertake the purchase and sale of different securities such as shares, debentures, mutual funds, bonds etc., on behalf of their customers. They run a separate 'Portfolio Management Scheme' for their high net worth customers.
- vi. **Act as trustee, executor, attorney, etc:** The banks act as executors of Will, trustees and attorneys. It is safe to appoint a bank as a trustee than to appoint an individual. Acting as attorneys of their customers, they receive payments and sign transfer deeds of the properties of their customers.
- vii. **Act as correspondent:** The commercial banks act as a correspondent of their customers. Small banks even get travel tickets, book vehicles; receive letters etc. on behalf of the customers.
- viii. **Preparations of Income-Tax returns:** They prepare income-tax returns and provide advices on tax matters for their customers. For this purpose, they employ tax experts and make their services, available to their customers.

B. General Utility Services

The General utility services include the following:

- i. **Safety Locker facility:** Commercial banks provide facility of safety vaults or lockers to keep valuable articles of customers in safe custody.
- ii. **Payment Mechanism or Money Transfer:** Transfer of funds is one of the important functions performed by commercial banks. Cheques and credit cards are two important payment mechanisms through banks. Banks, these days employ computers to speed up money transfer and to reduce cost of transferring funds.
Electronic Transfer of funds is also known as 'Cheque less banking' where funds are transferred through computers and sophisticated electronic system by using code words. They offer Mail Transfer, Telegraphic Transfer (TT) facility also.
- iii. **Travellers' cheques:** Commercial banks issue traveller's cheques to their customers to avoid risk of taking cash during their journey. Travellers Cheques are used by domestic travellers as well as by international travellers. The issuing bank levies certain commission depending upon the number and value of travellers cheques issued.
- iv. **Letters of Credit:** Letter of Credit is a payment document provided by the buyer's banker in favour of seller. This document guarantees payment to the seller upon production of document mentioned in the Letter of Credit evidencing dispatch of goods to the buyer.
The Letter of Credit is an assurance of payment upon fulfilling conditions mentioned in the Letter of Credit. The letter of credit is an important method of payment in international trade.
- v. **Acting as Referees:** The banks act as referees and supply information about the business transactions and financial standing of their customers on enquiries made by third parties. This is done on the acceptance of the customers and help to increase the business activity in general.
- vi. **Provides Trade Information:** The commercial banks collect information on business and financial conditions etc., and make it available to their customers to help plan their strategy. Trade information service is very useful for those customers going for cross-border business. It helps the traders to know the exact business conditions, payment rules and buyers' financial status in other countries.
- vii. **ATM facilities:** Almost all the banks today have ATM facilities. Under this system the customers can withdraw their money easily and quickly and 24 hours a day. This

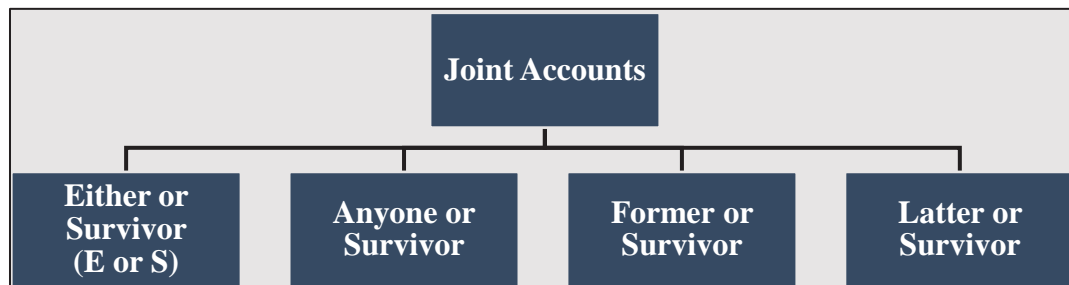
- is also known as 'Any Time Money'. Customers under this system can withdraw funds i.e., currency notes with a help of certain magnetic card issued by the bank and similarly deposit cash/cheque for credit to account.
- viii. **Credit cards:** Banks have introduced credit card system. Credit cards enable a customer to purchase goods and services from certain specified retail and service establishments up to a limit without making immediate payment. In other words, purchases can be made on credit basis on the strength of the credit card.
 - ix. **Gift Cheques:** The commercial banks offer Gift cheque facilities to the general public. These cheques received a wider acceptance in India. Under this system by paying equivalent amount one can buy gift cheque for presentation on occasions like Wedding, Birthday.
 - x. **Accepting Bills:** On behalf of their customers, the banks accept bills drawn by third parties on its customers. This resembles the letter of credit. While banks accept bills, they provide a better security for payment to seller of goods or drawer of bills.
 - xi. **Underwriting Securities:** Commercial banks also undertake the task of underwriting securities. As public has full faith in the creditworthiness of banks, public do not hesitate in buying the securities underwritten by banks. This is also known as Merchant Banking.
 - xii. **Advice on Financial Matters:** The commercial banks also give advice to their customers on financial matters particularly on investment decisions such as financial planning, wealth management, expansion, diversification, new ventures, rising of funds etc.

Different types of Customers:

Before moving further, let us understand the different types of customers that can open a Bank Account.

Individuals: Any person above 18 years of age and having a sound mind can open a Bank Account, either singly or jointly with others.

Joint Accounts: When two or more individuals open a common account, it is known as a Joint Account. There are several types of Joint Accounts which are discussed below:



- **Either or Survivor:** This mode of joint holding is applicable when there are only two account holders. In this mode, any one of the account holder can operate the account. In case of death of one holder, the other holder can continue to operate the account or get the balances transferred to his individual account. In case there is a nominee to the account, the nominee can claim the proceeds only after the death of both the holders. This mode is popularly known as “E or S” mode.
- **Anyone or Survivor:** This mode is similar to *Either or Survivor* in all respect, except for the fact that this is applicable when the number of Account holders are more than two. In this mode, any one of the account holder can operate the account. In case of death of one holder, the remaining survivors can continue to operate the account or get the balances transferred to any other account of their choice. In case there is a nominee to the account, the nominee can claim the proceeds only after the death of all the holders.
- **Former or Survivor:** In this type of account, the second holder cannot operate the account so long the first holder is alive. The second holder can access, operate or transfer the proceeds of the account only when the first holder expires.
- **Latter or Survivor:** Unlike the previous mode, here the first holder cannot operate the account so long the second holder is alive. The first holder is eligible to access, operate or transfer the proceeds of the account after the death of the second holder only.

Additional Info

In absence of a mandate from the joint account holders, balance in a joint account shall be paid to the surviving account holders and the legal heirs of the deceased account holder, in the event of death of a joint account holder.

Hindu Undivided Family (HUF): This type of accounts can be opened by Hindus, Sikhs or Jain joint families. The salient features of HUF are given below:

- The Hindus, Sikhs & Jains are the communities who can form HUF

- Joint owners of HUF are called Co-parceners.
- Only male member by birth or adoption can become co-parcener.
- Senior most member or Karta alone is empowered to handle the affairs of HUF.
- HUF declaration form or account opening form should be executed by the Karta in Karta's capacity and by all the major co-parceners in their personal capacity.
- On Karta expiring or becoming insane or being declared as personally insolvent, the next senior most male co-parcener becomes Karta.

Pardanashin Lady: A Pardanashin lady is someone who remains completely secluded from the outside world and does not interact with people other than the members of her family. Though legally a Pardanashin lady is competent to open accounts, Bankers generally discourage opening of accounts of Pardanashin Lady as her identity cannot be ascertained. Extra precautions need to be taken in case the account has to be opened like getting her signature attested by her guardian, if she is unmarried and by her husband, if she is married. In case the lady is illiterate, she is not issued a cheque book and she will have to transaction instructions in the presence of an independent witness. A literate Pardanashin lady, can however, be issued a cheque book.

Blind Persons: A blind person can legally open a Bank Account. However, some extra precautions need to be taken by the Banker while opening and transacting the account, which are given below:

- Rules are to be explained in front of a witness.
- Identification marks are to be noted.
- Deposits and payments are to be witnessed by independent person.

Illiterate Persons: The rules for opening and maintaining the accounts of illiterate persons are as follows:

- They are capable into legal contract and hence can open a Bank Account also.
- Rules are to be explained in front of a witness
- They are to call on the bank personally to receive payments.
- Joint a/c. of two illiterate persons should be under joint operation.

Minors: As per section 3 of Indian Majority Act, 1875 a person who has not completed 18 years of age is a minor and if a guardian is appointed by a court during his minority, he remains minor till completion of 21 years of age. The rules regarding a Minor's account are given below:

- Minor's account may be opened to be operated by the natural guardian or the court appointed guardian.
- Minor's account may be opened to be operated by the minor himself if he or she is of 10 years age and can read and write.
- When the father is not in actual charge of the affairs of the minor who is in exclusive care and custody of the mother, the mother can act as Natural Guardian even during the life time of the father.
- A Hindu father entitled to act as guardian can also appoint a guardian in respect of the minor's person or property who acts after the death of the father or mother and is known as Testamentary Guardian.
- No overdraft/loan should be given to a minor even if security is provided as such contract will be void. A guarantee in such a case will also be invalid.
- A minor can draw, endorse or negotiate a cheque or a bill and can bind others but he is not liable on such instruments.

Partnership Firms: A partnership is the relationship between two or more persons who agree to share the profits of business. The following rules should be considered while opening and maintaining the account of a Partnership Firm:

- A partnership firm is an entity separate from its partners.
- As per Section 11 of Indian Partnership Act 1932 a firm engaged in banking business cannot have more than 10 partners, while in other firms the number cannot exceed 20, otherwise the partnership will be illegal.
- Registration of firm is not mandatory, but a registered firm can sue others to enforce a right arising out of a contract.
- Suits by unregistered firm are not maintainable. A partner of an unregistered firm cannot sue other partners for his rights.
- A minor can be admitted only to the benefits of a partnership, but he cannot be held liable for the acts of the firm. Minor's date of birth has to be recorded. On attaining majority if he chooses to remain partner, the same need be recorded accordingly.
- A partner is an agent of the firm and his acts for and on behalf of the firm bind the firm.
- While opening bank account, all partners have to sign the account opening form. However, operation of the account may be decided by the partners to suit their convenience.

- Cheques payable to the firm or endorsed to the firm cannot be credited in the personal account of the firm as that would amount to conversion.
- In case of death/retirement or insolvency of a partner, operations in the account should be stopped. The lunacy of a partner does not dissolve a firm unless ordered by the court.
- Cheques signed by insane, insolvent and dead partner should not be paid.
- HUF/Trust/Joint Stock Co. can become a partner in a firm.
- In case of dispute between partners, one partner can revoke the authority against other partners to operate the account. In such situation, the banker has to stop the operations in the account.
- On death of a partner the firm is treated as dissolved unless there is a contract to the contrary.
- Admission of a new partner dissolves old firm and forms a new firm

Joint Stock Companies: Joint Stock companies can open Bank accounts and the following rules are applicable to these entities:

- Joint Stock companies are separate legal entities.
- Private Ltd Company- Shareholders :- minimum 2 and maximum 50
 Directors: - minimum 2 and maximum 7
- Public Limited Company- Shareholders:- minimum 7 and maximum unlimited
 Directors: - minimum 3 and maximum unlimited
- While opening accounts following documents are to be obtained:-
 - a. A true copy of the Memorandum of Association which specifies relationship with outside world and contains objectives, liability, name and scope of the activities.
 - b. A true copy of the Articles of Association which lays down the regulations for carrying the objects, activities and management of its internal affairs as defined in its Memorandum of Association.
 - c. A true copy of certificate of incorporation.
 - d. A true copy of certificate of commencement of business in respect of public limited companies.
 - e. A copy of resolution from the Board of Directors of the company certified by the chairman of the meeting. This would normally cover:
 - i. Name of authorized persons

- ii. Scope of their authority
 - iii. Their designation
 - iv. Their signatures
 - v. Operational Instructions
- Banker must note the complete address of registered office of the company as any legal notice or recall notice can only be served on the Regd. Office of the company u/s. 51 of Companies Act.

Executors and Administrators: The following details must be considered for opening and maintaining the accounts of Executors and Administrators:

- When a person leaves a will, the person named in the will to look after the property of the will maker after his death is called executor. But if a person dies intestate i.e. without leaving any will, court appoints an administrator to look after the estate of the deceased.
- Executor's account is to be opened on production of probate for the will granted by the court.
- Administrator's account is to be opened on production of letter of administration issued by the court.
- The account may be opened in the style of "A-Executor (or Administrator) to the estate of X deceased.
- All executors or administrators are considered as one person U/s. 221 of Indian Succession Act, 1925. On the death of an executor, his powers are vested in the surviving executor and in case of sole executor; fresh probate has to be obtained. In case of death of one executor/administrator, a cheque issued by him should not be returned as deceased executor's/administrator's powers are vested with the surviving executors/ administrators.
- Stop payment instructions can be issued by a single executor/administrator in the event of more than one executor or administrator. But withdrawal of stop payment instructions should be by all executors/administrators.

Trusts:

- Indian trust Act governs Private Trusts. Public Trusts are governed by Public Trust Act.

The document which creates a trust is called a Trust Deed.

- Trust Deed should be carefully examined to ascertain the powers of the trustees and other conditions.
- Trustees cannot delegate their authority.
- Trust account should be operated jointly when the number of trustees is two or more unless the Trust Deed provides to the contrary.
- Trustees do not have implied authority to borrow. They can borrow for the Trust where the Trust Deed provides so.
- Insolvency of a trustee will not affect the trust property as the creditors of the trustee cannot have any recourse to the property of the Trust.
- Cheques in favour of the Trust should never be credited to personal account of the trustee.
- Funds lying in a trust account cannot be utilized for payment of debts of the trustee.

Societies and Clubs: Societies and clubs are non-profit making organizations and represent a group of persons. These institutions are normally incorporated under the Co-operative Society's Act. While opening account, the following precautions are to be taken:

- a) Copy of registration certificate should be obtained
 - b) Copy of the bye-laws should be obtained
 - c) Copy of resolution passed by the Managing Committee regarding opening and conduct of the account which should specify the names of the persons authorized to operate the account.
- On death, resignation of the authorized office bearer, bank should stop operations till nomination of another.

NRE & NRO Account:

Definition

NRE stands for Non -Resident External Rupee Account while NRO stands for Non -Resident Ordinary Rupee Account.

Joint Holding

- Only Non Resident Indians can become joint holders in a NRE account.
- Both Non Resident Indians and residents can become joint holders in a NRO account.

Purpose

- NRE account is for depositing income from abroad
- NRO account is mainly for putting Indian incomes (rent, dividends etc).

Exchange Rate Risk

- NRE account is exposed to exchange rate risk, when you transfer earnings in foreign currency and it gets converted to Indian Rupee.
- NRO account has no exchange rate risk at all.

Transfer between NRE and NRO accounts

- You can transfer money from your NRE account to NRO account.
- Money once credited to NRO account cannot be transferred back to the NRE account and only can be repatriated to an overseas account subject to fulfilment of documentation.

Tax on interest earned

- Interest earned on a NRE account is tax free.
- Interest earned on a NRO account is taxed at the highest tax slab of 30% plus education cess of 3%.

Repatriation

- In case of a NRE account both interest and principle are freely repatriable.
- The interest earned on a NRO Savings Account is repatriable after payment of taxes applicable in India. You may also repatriate up to a maximum of USD 1 million (equivalent) per calendar year from your NRO savings account. The following funds/assets are eligible for repatriation from your NRO Savings Account:
 - Sale proceeds of Assets acquired in India out of Rupee/Foreign Currency Funds.
 - Assets acquired by way of inheritance/legacy.
 - A fixed deposit with a bank or a firm or a company.
 - Provident Fund balance or Superannuation benefits.
 - Amount of claim or maturity proceeds of an insurance policy.
 - Sale proceeds of shares and securities.
 - Remittance of current income (such as rent, dividend, pension, interest, etc., in India).

Banker Customer Relationship:

Banker-Customer relationship arises from the services offered by the banks to its customers who may be an individual, a firm, a company, a trust, an institution or a government/ semi-government/ local government organisation. The relationship varies according to the services availed by the customers, which are described below:

- i. **Debtor and Creditor**-On opening of a deposit account the banker becomes a debtor to its deposit account holder. But the position changes to Creditor-Debtor when the customer's account is overdrawn. The Creditor has the right to demand payment of the money from the banker; and the banker is under obligation to repay its debt whenever required to do so properly.
- ii. **Agent-Principal**- Banker assumes the role of agent while collecting cheques/undertaking sale purchase of securities.
- iii. **Bailor- Bailee**- When articles are received for safe custody, the relationship is of Bailor-Bailee.
- iv. **Lessor-lessee**- The relationship arising out of hiring of a safe deposit locker is that of Lessor-Lessee.
- v. **Trustee-Beneficiary**- When a trust is created and the bank is appointed as a trustee, the relationship of Trustee-Beneficiary is created.

Banker's Obligation to maintain secrecy of accounts:

The banker is under an obligation not to disclose any information regarding his customer's accounts to a third party and also to take all necessary precautions and care to ensure that no such information leaks out.

Disclosure of information as required by Law: A banker has to disclose information in respect of customer's account in the following cases:

- a. **Under Income Tax Act, 1961**-Section 133 of Income Tax Act empowers the Income Tax Authorities to ask a banker to furnish information in respect of his customer's account.

Additional Info

Income Tax Attachment Order:

- *Under Section 226(3) of the Indian Income Tax Act, 1961, the Income Tax Officer may attach i) any debt due and payable, ii) debts due but not payable on the date of receipt of the notice and iii) any amount received subsequently on account of the income tax dues of the assessee.*
- *Income tax attachment orders issued in the assessee's account attaches joint account of the assessee. The share of the joint holders in such account shall be presumed, until contrary is proved, to be equal.*

- b. **Under Companies Act, 1956-** As per section 235 or 237, the banker of a company is required to provide information of the company's account to the Inspector appointed by the Central Govt.
- c. **Under Court's Order-** Banker is bound to produce certified copies of the entries in the bankers' books as per the Bankers' Books Evidence Act, 1891.
- d. **Under RBI Act, 1934-** Under Section 45B RBI asks for credit information which the banker has to provide. After enactment of Reserve Bank of India (Amendment) Act, 1974, the banks are granted statutory protection to exchange freely credit information mutually among them.
- e. **Under Banking Regulation Act, 1949-** U/s. 26 every banking company has to submit a return annually of all such accounts in India which have not been operated upon for 10 years giving particulars of the deposits standing to the credit of each such account.
- f. **Under Gift tax act, 1958-** Section 36 of the Act empowers Gift tax Authorities to call for information in respect of customer's account.
- g. **Disclosure to Police-** Police Officers conducting an investigation may inspect banker's books.
- h. **Under FEMA, 1999-** Officers of the Directorate of Enforcement are empowered to inspect the books and accounts and other documents of any authorized dealer in Foreign Exchange.

Termination of Banker-Customer Relationship: The relationship terminates in the following events:

- a. Customer closes the account
- b. Bank closes the account by giving due notice
- c. On death of the customer
- d. In case of insanity/Insolvency of the customer
- e. On receipt of attachment order(relationship gets suspended)

Additional Info

NBFC:

A non-banking financial company (NBFC) is a company registered under the Companies Act,

1956 and is engaged in the business of loans and advances, acquisition of shares/stock/bonds/debentures/securities issued by government, but does not include any institution whose principal business is that of agriculture activity, industrial activity, sale/purchase/construction of immovable property.

NBFCs are doing functions almost similar to that of banks; however there are a few differences:

- (i) A NBFC cannot accept demand deposits (demand deposits are funds deposited at a depository institution that are payable on demand -- immediately or within a very short period -- like current or savings accounts.)*
- (ii) It is not a part of the payment and settlement system and as such cannot issue cheques to its customers; and*
- (iii) Deposit insurance facility of DICGC is not available for NBFC depositors unlike in case of banks.*

SUMMARY:

- **Origins of Banking:** The origins of banking can be traced to ancient times, when it started with simple money lending and bartering practices for agricultural and other commodities.
- In India, Banks are classified into:
 - **Central Bank (RBI):** The bank which manages and regulates the banking system of a particular country is called Central Bank. The Reserve Bank of India is the Central Bank of India.
 - **Specialised Banks:** Those banks which are meant for special purposes. For examples: NABARD, EXIM bank, SIDBI, etc.
 - **Commercial Bank:** The primary function of commercial banks is to accept deposits from the customer and grant loans.
 - **Co-operative Banks:** Co-operative Banks are nothing but an association of members who group together for self-help and mutual-help.
- The functions of Reserve Bank of India includes:
 - Issue of currency notes
 - Controlling the monetary policy
 - Regulator and supervisor of the financial system
 - Banker to other banks
 - Banker to the government
- The functions of a Commercial Bank can be divided into:
 - Primary Function
 - Secondary Function
- The primary functions include accepting deposits, advancing of loans and credit creation.
- The secondary functions include agency functions, general utility functions, etc.
- Different types of customer includes Individuals, Joint Accounts, Hindu Undivided Family (HUF), Pardanashin Lady, Blind Persons, Illiterate Persons, Minors, Partnership Firms, Joint Stock Companies, Executors and Administrators, Trusts, Societies and Clubs, etc.
- **NRE & NRO Account:** NRE stands for Non -Resident External Rupee Account while NRO stands for Non -Resident Ordinary Rupee Account.
- **Banker Customer Relationship:** Banker-Customer relationship arises from the services offered by the banks to its customers who may be an individual, a firm, a company, a trust, an institution or a government/ semi-government/ local government organization. The relationship terminates in the following events:
 - Customer closes the account
 - Bank closes the account by giving due notice
 - On death of the customer
 - In case of insanity/Insolvency of the customer
 - On receipt of attachment order(relationship gets suspended)

Knowledge Check:

1. State whether the following statements are true or false:
 - (a) The bank which provides loans to set up small scale business units / industries is called SIDBI.
 - (b) Accepting deposit and granting loans is the secondary function of a commercial bank.
 - (c) The main function of a Commercial Bank is to serve as an intermediary between the savers and the investors.
 - (d) Accepting deposits from general public is also a function of RBI.

2. Choose the most appropriate alternative among the followings:
 - (a) Which of the followings is not a primary function of a commercial bank?
 - i. Accepting Deposits from public
 - ii. Granting Loans
 - iii. Dealing in FOREX Market
 - iv. Credit Creation
 - (b) The bank which is established in order to cater and boost the rural economy India is known as _____.
 - i. NABARD
 - ii. EXIM
 - iii. RRB
 - iv. SIDBI
 - (c) The role of RBI do not includes:
 - i. Issue of currency notes
 - ii. Accepting deposits from public
 - iii. Controlling the monetary policy
 - iv. Regulator and supervisor of the financial system
 - (d) _____ is a payment document provided by the buyer's banker in favour of seller.
 - i. Travellers' Cheque
 - ii. Letter of Credit
 - iii. Safety Locker
 - iv. Bank Overdraft

3. Write short note on the functions of the Reserve Bank of India.
4. What do you mean by Commercial Banks? Discuss its function briefly.
5. Discuss the various types of Banker-Customer Relationship.

Unit 2: Banking Products in India

➤ After completing this unit, the student will be able to:

- Understand the various retail banking products and services available in India
- Recognise the various Priority Sectors and understand their importance
- Learn about other products like credit cards and Kisan Credit Cards(KCC)



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