

IN BRIEF

A PRIMER ON THE BANKING LAWS (AMENDMENT) BILL, 2024



Introduction

The Banking Laws (Amendment) Bill, 2024 (Bill) was introduced in the Lok Sabha on August 9, 2024, and the Bill was passed by the Lower House on December 3, 2024. It is yet to be passed by the Rajya Sabha and receive the President's assent. The Bill seeks to *inter alia* amend key legislations, viz., the: (i) Reserve Bank of India Act, 1934; (ii) Banking Regulation Act, 1949; (iii) State Bank of India Act, 1955; (iv) Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; and (v) Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980. The amendments introduced by the Bill are aimed towards improving banking governance and meeting modern day needs.

This article provides a brief overview of the key amendments proposed by the Bill and its implications for the Indian banking sector.

Overview of Key Amendments

(1) Increase in the Threshold of Substantial Interest

The Bill proposes to amend the definition of the term “substantial interest” under the Banking Regulation Act, 1949 (BR Act). Under Section 5(ne)(i) of the BR Act, the term “substantial interest” in a company refers to an individual, his or her spouse, or minor child (singly or collectively) holding a beneficial interest in the paid-up value of the shares exceeding Rs. 5,00,00/- (Rupees five lakh) or 10% (ten percent) of the paid-up share capital of such a company, whichever is lower. The

Bill has proposed to increase the threshold of substantial interest from Rs. 5,00,000/- (Rupees five lakh) to Rs. 2,00,00,000/- (Rupees two crores) or 10% (ten percent) of the paid-up share capital of such company, whichever is lower. It is pertinent to note that the above threshold is proposed to be amended for the first time since the year 1968.

(2) Reform in Nomination Rules

The Bill proposes to amend the BR Act to enable depositor(s) to nominate up to 4 (four) individuals (nominees), either successively or simultaneously as nominees, instead of a sole nominee to whom the deposit may be returned in the event of depositor's death. The proposed amendment aims to enhance protection and customer convenience for depositors and their legal heirs with respect to matters pertaining to deposits, articles of safety, and safety lockers.

As per the proposed amendment, if the nomination is made successively in favour of more than one person, such nomination should be effectively only in favour of one person in order of priority. Whereas, if the nomination is made simultaneously in favour of more than one person, such nomination should be effectively in favour all such persons and the proceeds shall be distributed amongst them in proportion as declared by the depositor at the time of nomination. Additionally, for articles kept in the safe custody of banks, the Bill allows depositors to nominate up to 4 (four) individuals successively. The following conditions shall be applicable for valid nomination:

- The nomination cannot exceed 4 (four) persons;
- The nomination must explicitly state the percentage of the deposit each nominee is entitled to;
- The nomination must cover the entire amount of the deposit;
- If any nominee dies before receiving his/ her share of the deposit, such nominee's portion of the nomination becomes ineffective, and it will be treated as un-nominated in favour of the deceased nominee for such portion of the deposit.

Any nomination failing to comply with the above conditions shall be invalid.

(3) Tenure for Directorship for Co-operative Banks

The Bill has proposed 2 (two) amendments with respect to directorships in Co-operative Banks. As per Section 10A of the BR Act, no director of a company, excluding its chairperson(s) and whole-time director(s) can hold

office for a period exceeding 8 (eight) years. The Bill introduces an amendment extending the tenure for directors of co-operative banks and permitting them to hold office up to a period of 10 (ten) years ensuring alignment with the Constitution's Ninety Seventh Amendment, 2011, whereas the limit for holding directorship of other banking companies remains 8 (eight) years. Additionally, Section 16(1) of the BR Act prohibits any person from being a director of a banking company if such person is already a director of another banking company, except for directors appointed by the Reserve Bank of India (RBI), allowing them to hold office despite this general prohibition. The Bill has introduced another exception for directors of a Central Co-operative Bank, which provides that directors of such a bank may be elected to the board of directors of the State Co-operative Bank in which such a director is a member. As such, the proposed amendments aim to strengthen the ecosystem governing co-operative banks by enabling coordination between state level and central level co-operative banks.

(4) Modification in Definition of Fortnight and Other Reporting Timelines

The Bill proposes to amend the Reserve Bank of India Act, 1934 to modify timelines in respect of reporting and maintaining cash reserves under Section 42. In the current regime, banks calculate the average daily balance on a fortnight basis, i.e., from the period commencing from Saturday to the second following Friday – resulting in a fourteen-day cycle. The Bill redefines the term ‘fortnight’ to be the 1st to the 15th or 16th to the last day of each calendar month, thereby aligning it with the standard calendar intervals and simplifying compliance reporting. This change is applicable to scheduled and non-scheduled banks in India. The proposed amendment would also apply to statutory reporting by banks under Sections 18, 24, 25 and 56 of the BR Act, so as to ensure consistency in reporting.

(5) Remuneration of Auditors to be Decided by Public Sector Banks

Under the Bill, amendments have been proposed to Section 10(2) of the Banking Companies (Acquisition and Transfer of Undertakings Act), 1970 and the Banking Companies (Acquisition and Transfer of Undertakings Act), 1980. As per the proposed amendments to Section 10(2) of the aforesaid legislations, banks would be empowered to decide/ fix the remuneration of the auditor. The Bill also amends Section 41 of the State Bank of India Act, 1955, to allow the bank to fix the remuneration of its auditors. Previously, the responsibility of fixing the remuneration of auditors was vested with the RBI, which fixed such remuneration in consultation with the Central Government of India. Notably, the proposed amendment grants banks an enhanced autonomy and flexibility in respect of setting auditor fees. It is, however, crucial that adequate safeguards are implemented to maintain auditors' independence and ensure audit quality.

(6) Investor Protection Fund

The Bill further proposes to amend the Banking Companies (Acquisition and Transfer of Undertakings Act), 1970 and the Banking Companies (Acquisition and Transfer of Undertakings Act), 1980, with respect to the transfer of unpaid dividends to an Investor Education and Protection Fund (IEPF), established under Section 125 of the Companies Act, 2013. At present, the amount which remains unpaid or unclaimed for a period

of 7 (seven) years from the date of such transfer to the unpaid dividend account is required to be transferred to the IEPF. The proposed amendment, however, expands the provision to include not only any amounts in the unpaid dividend account, but also the shares in relation to which such dividends remain unpaid, as well as interest and redemption amounts on any bond issues that are unpaid or unclaimed. As such, as per the proposed amendment, the following unclaimed or unpaid money shall be transferred to the IEPF:

- Any money remaining unpaid or unclaimed for 7 (seven) years from the date of its transfer to the unpaid dividend account;
- All shares for which dividend has not been paid or claimed for a period of 7 (seven) consecutive years, along with a detailed statement in respect hereof; and
- Any interest redemption amounts on any bonds issued that are unpaid or unclaimed for a period of 7 (seven) years from the date.

Further, any person whose shares or unclaimed/unpaid money has been transferred to the IEPF is entitled to re-claim the transferred shares or receive a refund.

Conclusion

The Bill aims to move towards a more modernized Indian banking legal ecosystem, with a key focus on customer convenience, institutional governance, and keeping up with the inflation trends. Irrespective of the above-mentioned progressive amendments, some aspects of the Bill may require additional scrutiny, such as the transition of regulatory oversight from the RBI to the banks which may result in decentralized governance, thereby affecting uniformity in banking practices. Hence, it is imperative for banks to implement adequate safeguards, such as monitoring of conflict of interests, financial awareness and literacy initiatives, and adoption of risk management practices in order to align India's banking ecosystem with the best global financial practices and ensure that the reforms achieve their intended objective.

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