

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

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"RECASTING INDIAN BANKING LAW FOR THE 21ST CENTURY TO PAVE A PATH TOWARD GLOBAL FINANCIAL LEADERSHIP"

AUTHORED BY - S.KOPPERUNDEVI

Abstract

Recasting the Indian banking law system for the growth of global challenges. Banking system is one of the most important financial institutions. By introducing creative solutions and customised goods, new and developing technology have completely changed the financial services sector. In order to provide a seamless customer experience, supply-side elements like governmental backing and the rise of Fintechs have combined with demand-side factors like growing customer expectations for digital services.

Keywords

BaFin, ECB, AAA, BBB

Introduction

Indian banks have demonstrated robustness during the recent upheaval in the global banking sector. Nonetheless, the future remains unpredictable—financial institutions need to focus on building comprehensive resilience strategies to succeed moving forward.

Bank Safety Determining Factors

Enormous factors determine the banking safety system.

1. Regulation and supervision

In the banking industry, regulation and supervision are essential. By ensuring that banks follow stringent guidelines, regulatory agencies such as the Federal Financial Supervisory Authority (BaFin) reduce the likelihood of misconduct and bank failure. It is now well known that banks have to comply with a complicated set of rules intended to preserve system integrity and protect depositor interests. For example, top-notch security can be maintained through national monitoring even in cases of large supervision transfers, such as when a bank is no longer directly supervised by the

European Central Bank (ECB). Without being directly supervised by a central authority, these safeguards enable a bank to rank among the top 10 safest institutions globally.

2. Capital Reserve

In general, banks that prioritise keeping strong capital reserves are better able to withstand financial strain. Capital ratios, which compare a bank's capital to its assets, are markers of long-term viability. A high capital ratio indicates a sizable financial cushion, putting the bank in a strong position to withstand possible losses and carry on with business as usual. Like the much-lauded international banks, your preferred financial institution should have outstanding capital reserves. This is crucial for protecting depositor cash and providing a buffer against market downturns. Banks can mitigate risks and avoid instability that could endanger your financial security by maintaining sizable reserves.

3. Asset Quality

Finally, a bank's stability and safety are greatly influenced by the calibre of its assets. A bank is in a stronger position if it has high-quality assets, which are low-risk and produce consistent returns. A bank's ability to manage risk and make wise investments is directly reflected in its asset quality. Another area where asset quality is important is liquidity management. In order to prevent future liquidity crises, banks with a diverse portfolio of liquid assets ensure that large withdrawal demands may be satisfied quickly. Finding the ideal balance between long-term and short-term assets is essential for banks in the highest echelon of safety in order to maintain their stability even under erratic market conditions¹.

Best safest bank in the world

A specific credit agency's assessment of a government, corporation, or individual's capacity and willingness to meet its financial commitments in full and by the deadlines is known as its credit rating. Additionally, a debtor's credit rating indicates the probability of default. It also reflects the credit risk that a debt instrument, such as a loan or bond issue, carries. It plays a vital role in determining the safety of the bank.

Moody's	S and P	Fitch	DBRS
Aaa	AAA	AAA	AAA

¹ <https://www.globalcitizensolutions.com/safest-banks-in-the-world/>

Aa1	AA+	AA+	AA(high)
Aa2	AA	AA	AA
Aa3	AA-	AA-	AA(low)
A1	A+	A+	A(high)
A2	A	A	A
A3	A-	A-	A(low)
Baa1	BBB+	BBB+	BBB(high)
Baa2	BBB	BBB	BBB
Baa3	BBB-	BBB-	BBB(low)
Ba1	BB+	BB+	BB(high)
B1	B+	B+	B(high)
B2	B	B	B
Caa1	CCC+	CCC+	CCC(high)
Caa2	CCC	CCC	CCC(low)
Caa3	CCC-	CCC-	CCC(Low)
-	D	D	D

letter-based scale is used to convey credit ratings, with higher scores denoting greater creditworthiness and lower risk. As a result, AAA, or AA, denotes strong banking scrutiny, which reassures investors and customers by indicating that the bank is financially healthy and unlikely to default.

AAA: The highest rating means extremely safe, with a very low risk of default

AA, A: Higher credit quality but slightly more risk than AAA.

BBB: Medium credit quality; considered "investment grade".

BB, B: Higher risk known as 'speculative' or junk bonds.

CCC, CC, C: Very high risk of default

D: Default ².

Kfw(kreditanstalt für wieseraufbau) bank - Germany

Credit ratings: AAA(S&P),Aaa(Moody's),AAA(Fitch)

The federal government of Germany owns Kfw, a development bank.It is well known for its

² <https://corporatefinanceinstitute.com/resources/finance/credit-rating/>

outstanding credit ratings and sound financial standing, which are reinforced by government support. Because it finances initiatives pertaining to social welfare, environmental preservation, and economic development, it is regarded as one of the safest banks in the world. Its robust capital-based and cautious risk management make it one of the safest banks in the world.

Indian banking system

Detailed Justification Regarding Indian Bank's debt instruments, CRISIL Ratings has reaffirmed its "CRISIL AAA/CRISIL AA+/Stable/CRISIL A1+" ratings. The overall ratings continue to take into account the considerable scope of operations as well as the significant support that Indian Bank is anticipated to get from its principal owner, the Government of India. It also takes into account a sound resource profile, which includes sufficient capitalisation and a high percentage of current and savings account (CASA) deposits. The modest but growing asset quality and earnings profile somewhat counteract these strengths. Due to Indian Bank's enhanced ability to make future coupon payments, which was bolstered by the adjustment of accrued losses with the share premium account, CRISIL Ratings upgraded the rating of Tier I bonds (under Basel III) on October 1, 2021.

The bank's eligible reserves to total assets ratio has improved as a result of the adjustment. Additionally, as per the Nationalised Banks (Management and Miscellaneous Provisions) Amendment Scheme, 2020, as announced in the Department of Financial Services Gazette notification no. CG-DL-E-23032020-218862 (S.O. 1200 E) dated 23.03.2020, the bank still has share premium reserves that can be used to offset any future losses. This enhances the credit profile of the Tier I (under Basel III) instruments. This provision has also been used by other public sector banks (PSBs). Nonetheless, it is important to keep an eye on any significant depletion of the share premium account or any regulatory modifications to its allocation related to the adjustment of accrued losses.

RBI releases 2018 list of Domestic Systemically Important Banks (D-SIBs)

SBI, ICICI Bank, and HDFC Bank continue to be identified as Domestic Systemically Important Banks (D-SIBs), under the same bucketing structure as last year. The additional Common Equity Tier 1 (CET1) requirement for D-SIBs has already been phased-in from April 1, 2016 and will become fully effective from April 1, 2019. The additional CET1 requirement

will be in addition to the capital conservation buffer³.

The updated list of D-SIBs is as follows:

Bucket	Banks	Additional common equity tier 1 requirement as a percentage of risk weighted assets(RWAs) for FY 2018-19	Additional common equity tier 1 requirement applicable from April 1,2029 as per phase in engagement
5	-	0.75%	1%
4	-	0.60%	0.80%
3	State Bank of India	0.45%	0.60%
2	-	0.30%	0.40%
1	ICICI, HDFC BANK	0.15%	0.20%

Background:

The Reserve Bank had issued the Framework for dealing with Domestic Systemically Important Banks (D-SIBs) on July 22, 2014. The D-SIB framework requires the Reserve Bank to disclose the names of banks designated as D-SIBs starting from 2015 and place these banks in appropriate buckets depending upon their Systemic Importance Scores (SISs). Based on the bucket in which a D-SIB is placed, an additional common equity requirement has to be applied to it. In case a foreign bank having branch presence in India is a Global Systemically Important Bank (G-SIB), it has to maintain additional CET1 capital surcharge in India as applicable to it as a G-SIB, proportionate to its Risk Weighted Assets (RWAs) in India i.e. additional CET1 buffer prescribed by the home regulator (amount) multiplied by India RWA as per consolidated global Group books divided by Total consolidated global Group RWA.

The higher capital requirements are applicable from April 1, 2016 in a phased manner and will become fully effective from April 1, 2019. The additional common equity requirement for different buckets over the four year phase-in period is as under:

Bucket	April 1,2016	April 1,2017	April 1,2018	April 1,2019
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³ <https://www.rbi.org.in/commonman/English/scripts/PressReleases.aspx?Id=2900>

5	0.25%	0.50%	0.75%	1.00%
4	0.20%	0.40%	0.60%	0.80%
3	0.15%	0.30%	0.45%	0.60%
2	0.10%	0.20%	0.30%	0.40%
1	0.05%	0.10%	0.15%	0.20%4

Based on the methodology provided in the D-SIB framework and data collected from banks as on March 31, 2015 and March 31, 2016, the Reserve Bank had announced State Bank of India and ICICI Bank Ltd. as D-SIBs on August 31, 2015 and August 25, 2016, respectively. Based on data collected from banks as on March 31, 2017, the Reserve Bank had announced State Bank of India, ICICI Bank Ltd. and HDFC Bank Ltd. as D-SIBs on September 04, 2017. Current update is based on the data collected from banks as on March 31, 2018.

Further the D-SIB framework requires that “The assessment methodology for assessing the systemic importance of banks and identifying D-SIBs will be reviewed on a regular basis. However, this review will be at least once in three years.” Current review and analysis of cross country practices do not warrant any change in the extant framework at present.

Amendments in Indian banking laws in order to cope up with the global challenges

Finance Minister Nirmala Sitharaman tabled the Banking Laws (Amendment) Bill (2024) in the Lok Sabha, the lower house of India's bicameral Parliament, marking a significant step towards modernising the country's banking industry. The Reserve Bank of India Act (1934), the Banking Regulation Act (1949), and the State Bank of India Act (1955) are among the important banking laws that the Bill seeks to modify.

Important clauses and modifications in the proposed bill

1. Number of nominees permitted:

Important clauses and modifications The Bill's proposal to raise the number of nominees permitted per bank account is among its most noteworthy amendments. In order to give depositors more freedom and security, the new Bill aims to raise the current limit of one person in the account to four. It is anticipated that this modification will streamline the asset transfer procedure in the case of the account holder's passing, guaranteeing that the money is disbursed in accordance with their desires.

2. Substantial interest:

Redefining what constitutes "substantial interest" in relation to bank directorships is another goal of the bill. In order to reflect the economic shifts over the past few decades, including inflation, the threshold for what qualifies as substantial interest will be raised from the current INR 500,000 (GBP 4,675) to INR 20 million (GBP 187,000). This will guarantee that only those with substantial financial stakes can influence bank policies.

3. improved autonomy and governance:

Giving banks greater discretion over the compensation of statutory auditors is another important change that aims to improve the independence and efficacy of audits as well as the general control of the banking industry. The Bill intends to attract higher quality auditing services by enabling banks to determine auditor fees, which is essential for preserving financial system openness and confidence.

Impact on global challenges

The Bill's introduction is a clear and thorough attempt to modernise and enhance the legal framework that oversees the banking industry in India. To help India's financial sector compete with the traditional hotspots of Frankfurt, London, and New York, it is important to address important issues like nominee limits, significant interest thresholds, auditor compensation, and reporting schedules. Additionally, governance, flexibility, and efficiency within the sector should all be improved⁴.

Conclusion

By bringing out the enormous amount of efforts, Indian Banking system could be possibly make a notable changes in its functioning and makes the broad competition in the banking systems existed globally. The banking industry urgently needs reforms to improve governance and protect investors' interests. It is being emphasised that the proposed changes are a part of a larger initiative to modernise the banking industry and increase its resilience to future challenges.

⁴ <https://www.globallegalinsights.com/news/india-moves-towards-a-comprehensive-overhaul-of-banking-laws/>