

Bill Summary

The Banking Laws (Amendment) Bill, 2011

- The Banking Laws (Amendment) Bill, 2011 was introduced in the Lok Sabha on March 22, 2011 by the Minister of Finance, Shri Pranab Mukherjee.
- The Bill seeks to amend the Banking Regulation Act, 1949, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.
- The Bill proposes to make the following changes in order to help banking companies raise capital for expansion of the banking business:
 - It removes the ceiling of Rs 3000 crore on the amount of authorized capital nationalised banks must hold. Approval to increase or decrease the authorized capital has to be taken from the Central Government and the Reserve Bank of India (RBI).
 - It allows nationalised banks to issue two additional instruments (bonus shares and rights issue) to enable them to access the capital market for raising capital.
- The Bill also proposes some changes regarding the voting rights of the shareholders of banks:
 - It raises the ceiling on voting rights of shareholders of nationalised banks from one percent to ten percent.
 - It removes the existing restrictions on voting rights limited to ten percent of the total voting rights of all the shareholders of the banking company.
- To ensure proper control of the banking companies, the Bill makes the following provisions:
 - For persons who wish to acquire five percent or more of the share capital of a banking company, it will be mandatory to obtain prior approval from the RBI.
 - The RBI will also have the power to impose conditions while granting approval for acquisition of the share capital.
- Banking companies engage in various financial activities through the medium of associate enterprises. To ensure better regulation of such activities the Bill confers powers on the RBI to call for information and returns from such associate enterprises and also inspect them if required.
- Under the regulations of the Banking Regulation Act, 1949, the RBI has the power to remove a director or any other officers of the banking company. The Statement of Objects and Reasons of the Bill states that such power is not adequate if the entire Board of Directors is working against the interest of the depositors and the company. This Bill proposes to confer powers on the RBI to supersede the Board of Directors of a banking company for not more than 12 months and appoint an administrator for the managing the company during that period.
- The Negotiable Instruments Act, 1881 requires all banking companies to maintain a certain amount of cash as reserve ratio (CRR) on every alternate Friday of every month. If a banking company fails to maintain the prescribed minimum amount as CRR on any day, the Bill empowers the RBI to levy penal interest on the defaulter.
- The existing Competition Act, 2002 has given the power to the Competition Commission of India to regulate mergers and acquisitions. The Bill proposes to exempt combinations of banking companies from seeking such permission as these are regulated by RBI.
- The Banking Regulation Act, 1949 gives a time limit of one year to primary co-operative societies to get a license from the RBI to perform banking activities. This Bill extends the time period to three years within which a co-operative society can get the license by fulfilling all requirements to carry on banking business or cease doing so if the license is not granted.
- The Bill proposes to establish a “Depositor Education and Awareness Fund”. The Fund will take over the deposit accounts which have not been claimed or operated for a period of ten years or more.
- The Bill also proposes to increase the penalties and fines in certain cases of violation of the Banking Regulation Act, 1949. Such cases would include failure to furnish important information or willful provision of false information.

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