YES ACADEMY
Say Yes to CS

CS EXECUTIVE

Applicable for June 23/Dec 23

(Module-II)

ECONOMIC, BUSINESS AND COMMERCIAL LAWS

Adv. Chirag Chotrani

HIGHLIGHTS

- Updated as per latest module relevant for June'2023
- All Relevant Cases have been added
- Highlights for mind mapping
- Detailed Coverage of all the Concepts

CS Vikas Vohra *(Founder)*

CSEET : Current Affairs
EXECUTIVE : Company Law
: Securities Laws & Capital Markets
PROFESSIONAL : Drafting, Pleadings and Appearances

CA CS Harish A. Mathariya *(Founder)*

CSEET : Business Environment
EXECUTIVE : Corporate & Management Accounting
: Financial and Strategic Management

CMA Vipul Shah

EXECUTIVE : Tax Laws
PROFESSIONAL : Advanced Tax Laws

Video lectures available *for all subjects of* **CS Course** *at all levels.*

Adv Chirag Chotrani

CSEET : Legal Aptitude
EXECUTIVE : Jurisprudence, Interpretation & General Laws
: Setting up of Business Entities and Closure
: Economic, Business and Commercial Laws
PROFESSIONAL : Governance, Risk Management, Compliances and Ethics
: Corporate Funding & Listings in Stock Exchanges

CS Vaibhav Chitlangia

CSEET : Logical Reasoning
: Economics
PROFESSIONAL : Multidisciplinary Case Studies
: Insolvency – Law and Practice
: Corporate Restructuring, Insolvency, Liquidation & Winding - Up
LAW ENTRANCE : Logical Reasoning
: Maths

CS Muskan Gupta

CSEET : Business Communication
PROFESSIONAL : Secretarial Audit, Compliance Management and Due Diligence
: Resolution of Corporate Disputes,Non-Compliances & Remedies
: Labour Laws & Practice
LAW ENTRANCE : English Language
: Legal Aptitude

Adv. Amruta Chhajed

Adv. Vishishta Nayak

LAW ENTRANCE : Current Affairs
: General Knowledge

For demo lectures *visit our Youtube Channel*

#yesacademyforcs

For purchasing our notes, **Call 8888 235 235 / 8888 545 545**

or

Visit our website **www.yesacademy.co.in**

SANDESH

CS Vikas Vohra

CA CS Harish A. Mathariya

Welcome to YES Family!!

To begin with, we endorse our heartfelt thank you for showing your trust and confidence in YES Academy. We take pride to welcome you to this prestigious Academy, foundations of which are based on commitment, quality education and integrity. It has been our constant endeavour to deliver better and better. In our attempt to achieve mark of excellence and beyond, we would be even more grateful to have received your continued faith and love. We assure you, your trust will not go in vain and as reflected by our Vision Statement, we would continue to produce Best Company Secretaries as we have been doing for almost a decade now.

Combined experience of Team YES is 40 years+ and adding value each day. We have delivered outstanding results in the past with a bouquet of All India Rankers at all the levels of CS Course and with your efforts, we are confident, we will grow together.

Student convenience has always occupied a centre place at YES Academy and we strive to improve ourselves each day as we sincerely believe that improvement always has its own space, no matter what. Any suggestions from you are always welcome. Though Team shares a very good rapport with all of its students and the students feel very comfortable talking to any of their Teachers, still, if you wish to send us a suggestion, please feel free to write to us yesacademypune@gmail.com or get in touch with us at 8888 235 235/ 8888 545 545.

We assure you the best of success and pride. And yes, its not just a bond of 3 years of your term, but a relationship for life now. We welcome you in advance to this prestigious course of Company Secretaries.

On behalf of **TEAM YES**

CS Vikas Vohra CA CS Harish A. Mathariya
Founders

“Speak only that which will bring you honour”

In spite of all the variable factors like the canvass, paint and brush, the quality of the painting is the responsibility of a painter. The quality of a sculpture is the responsibility of the sculptor. Similarly, the quality of your life is your responsibility. Your life, your death, your success or failure is in your hands.

If I ask you to carry a 12 KG granite block, you will struggle with it. Instead, if I ask you to carry an adorable child, who weighs 12 KG, you will happily do it. Anything in life that is perceived as KASHTAM KASHTAM will only make you struggle. Anything in life that is perceived as ISHTAM ISHTAM will give you fulfillment.

The secret of living a life of fulfillment is to see responsibilities with ISHTAM ISHTAM attitude. Responsibilities should cause happiness to you and in you. Take charge. Take control. Take ownership. Be responsible. Remember, life or death or success or failure is your responsibility.

MY LOVE AND RESPECT TO....

To **Vikas Vohra** – You have never kept me like a faculty but like a small brother and always loved me unconditionally, I’ll be your side till my last breath
To **Harish Mathariya** – for believing in my potentials like no one else can
To **my Mummy** – You are my inspiration, the way you believe in me is what makes me keep going
To **my Papa** – You taught me to stand up and never give up whatever the situation is
To **my Wife** – Thank You for Existing!
To **Manisha Parmar** – For strengthening the contents of this book and adding immense value to it
To **every Student** – Glad to have found so many teachers in you, my source of happiness, my strength
To **my Competitors** – Thank you for being so strong and amazing. You bring out the best in me
To **Yes Academy for everything**

Sandesh....

Dear Reader,

At the outset, let me first take this opportunity to thank you for spending some of your valuable time with my words. I feel pleased to present to you, notes on **EBCL (Latest Edition - As per new module) for CS EXECUTIVE**

While writing this book, I have taken every possible effort to cover each and every provision as may be applicable to you and in the most lucid language, so this sums up the entire syllabus. Howsoever, there is always a scope for improvement. I shall highly appreciate any changes, corrections, errors, interpretations suggested by you so that the same can be incorporated in the subsequent editions. You may write to me at **chirag.chotrani2@gmail.com** or get in touch directly on my cell at **+91 8446427759**.

Many a times, while speaking with students, I come across this question about the opportunities for a Company Secretary and their scope in the times to come. I shall be wrong; if I simply quote that life would be simple post completion of the Course. Perhaps, the times ahead poses a lot of challenges and like I always say the only thing, which shall survive in the long run, shall be the Power of Knowledge and the ability to express the same and apply. Readers, empower yourself so robustly that as and when a challenge arises, it turns its way and says: let's catch hold of a weaker one.

It's said, "Fortune favors the brave". You give your best shot and leave the rest upon god to decide. Realize your strengths, work on your weaknesses, grab the best possible opportunity and overcome your threats. Different people define success differently as it means different to different. Realize your **"Being Successful"** factors and start chasing them every morning as you get up.

"Do everything no matter how unglamorous, to the best of your ability"

Because in the end, what shall matter would be quality of life you spent
and the smiles you lent to the people around you!!!!

With this, I wish you all a happy reading and I hope that you fall in love with this subject. I wish you all good luck and that you achieve what all you work for. Keep working, keep reading, keep spreading love, happiness and smile. You shall be a part of my prayers. I promise to serve you with the best. Someday, we shall once again meet AT THE TOP....

Try to
Reinvent
Yourself

CHIRAG CHOTRANI
Cell: 8446427759

Thank You so much
Fam for believing in us!

Let me assure you one thing,
its your success and happiness,
which matters the most to me and
I am committed to take every possible step,
to make your Dream come true,
as I sincerely believe,
whats your dream has now become mine.

Lets make it happen, **TOGETHER**!

Lets turn the table
to your side - CS it is!

CHAPTER 1 - RESERVE BANK OF INDIA ACT, 1934

INTRODUCTION

The origin of the Reserve Bank of India can be traced back to 1926, when the Royal Commission on Indian Currency and Finance - also known as the Hilton-Young Commission - recommended the creation of a central bank for India to separate the control of currency and credit from the Government and to enhance banking facilities throughout the country.

The Reserve Bank of India Act, 1934 established the Reserve Bank and set in motion a series of actions culminating in the start of operations in 1935. Since then, the Reserve Bank's role and functions have undergone numerous changes, as the nature of Indian economy and financial sector changed.

The Reserve Bank of India (RBI) was established on April 1, 1935 under the Reserve Bank of India Act, 1934. It is central bank of the country. RBI is also known as banker's bank and government's bank. The RBI controls monetary and banking policies of the Indian government.

The Reserve Bank designs and implements the regulatory policy framework for banking and non-banking financial institutions with the aim of providing people access to the banking system, protecting depositors' interest, and maintaining overall health of the financial system.

The RBI Act, 1934 applies to whole of India.

Origin of the Reserve Bank of India at a glance

1926: The Royal Commission on Indian Currency and Finance recommended creation of a central bank for India.

⇩

1927: A bill to give effect to the above recommendation was introduced in the Legislative Assembly, but was later withdrawn due to lack of agreement among various sections of people

⇩

1933: The White Paper on Indian Constitutional Reforms recommended the creation of a Reserve Bank. A fresh bill was introduced in the Legislative Assembly

⇩

1934: The Bill was passed and received the Governor General's assent

⇩

1935: The Reserve Bank commenced operations as India's central kink on April 1 as a private shareholders' bank with a paid-up capital of rupees five crore (rupees fifty million)

⇩

1942: The Reserve Bank ceased to be the currency issuing authority of Burma (now Myanmar)

⇩

1947: The Reserve Bank stopped acting as banker to the Government of Burma

⇩

1948: The Reserve Bank stopped rendering central banking services to Pakistan

⇩

1949: The Government of India nationalised the Reserve Bank under the Reserve Bank (Transfer of Public Ownership) Act, 1948

ESTABLISHMENT AND INCORPORATION OF RESERVE BANK

Section 3 of the RBI Act states that a bank to be called the Reserve Bank of India shall be constituted for the purposes of taking over the management of the currency from the Central Government and of carrying on the business of banking in accordance with the provisions of the Act.

Sub section (2) of this section provides that the Bank shall be a body corporate by the name of Reserve Bank of India, having perpetual succession and a common seal, and shall by the said name sue and be sued.

ORGANISATIONAL STRUCTURE & MANAGEMENT

The organizational structure of RBI can be classified under the following designations:

Central Board of Directors

Governor

Deputy Governors

Executive Directors
Principal Chief General Manager
Chief General Managers
General Managers
Deputy General Managers
Assistant General Managers
Managers
Assistant Managers
Support Staff

CENTRAL BOARD OF DIRECTORS

The Central Board of Directors is at the top of the Reserve Bank's organisational structure. Appointed by the Government under the provisions of Reserve Bank of India Act, 1934, the Central Board has the primary authority and responsibility for the oversight of Reserve Bank. The Governor is the Reserve Bank's chief executive.

The Governor supervises and directs the affairs and business of RBI. The management team also includes Deputy Governors and Executive Directors.

The Central Government nominates fourteen Directors on the Central Board, including one Director each from the four Local Boards (Mumbai, Calcutta, Chennai, New Delhi). The other ten Directors represent different sectors of the economy, such as, agriculture, industry, trade, and professions. All these appointments are made for a period of four years. The Government also nominates one Government official as a Director representing the Government, who is usually the Finance Secretary to the Government of India and remains on the Board during the pleasure of the Central Government.

The Deputy Governor and the Director nominated may attend any meeting of the Central Board and take part in its deliberations but shall not be entitled to vote.

However when the Governor is, for any reason, unable to attend any such meeting, a Deputy Governor authorized by him in this behalf in writing may vote for him at that meeting. [Section 8(3)]

The Governor and a Deputy Governor hold the office for such term not exceeding five years as the Central Government may fix when appointing them, and they are eligible for re-appointment. A Director nominated holds the office for a period of four years and thereafter until his successor is nominated. [Section 8(4)]

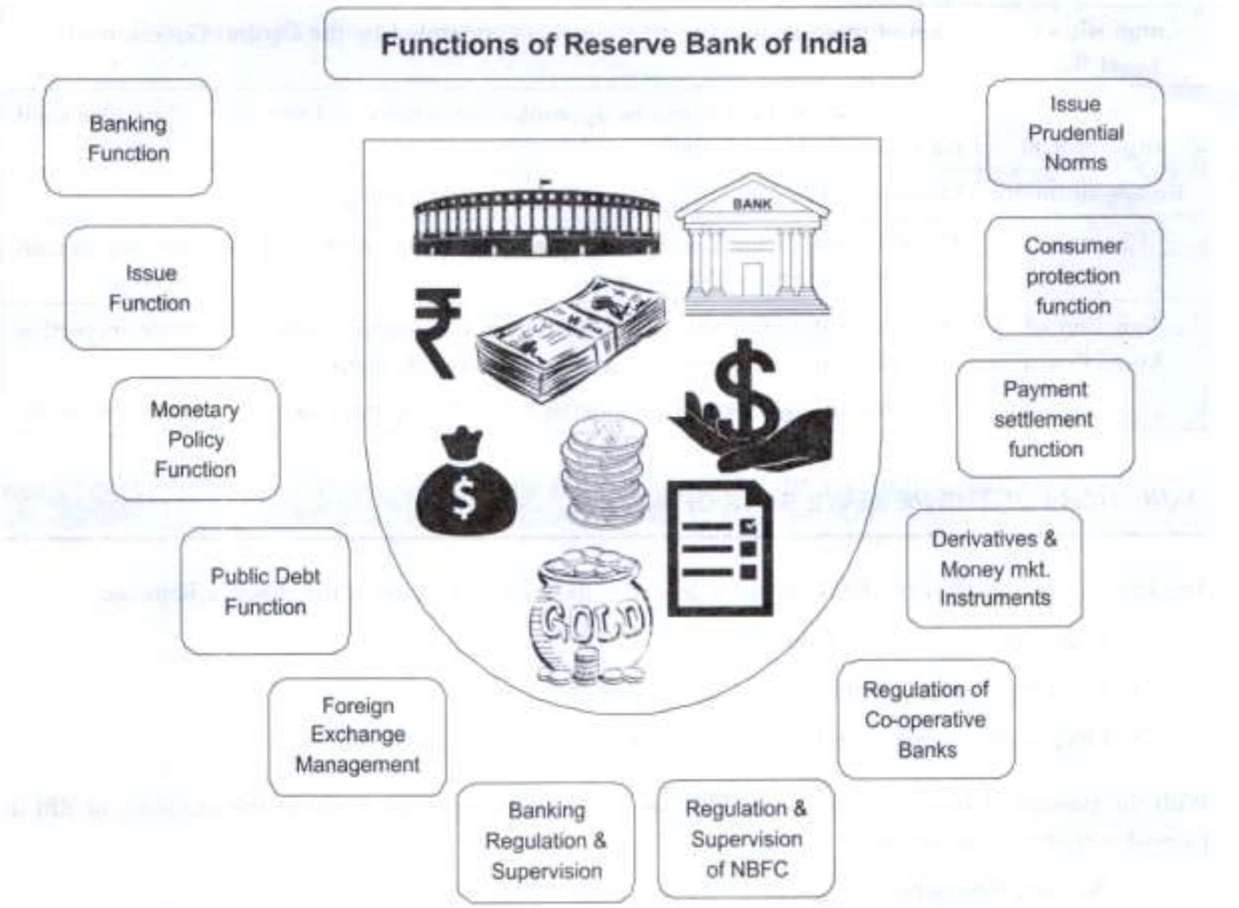
No act or proceeding of the Board can be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution, of the board. [Section 8(5)]

A retiring director shall be eligible for re-nomination. [Section 8(7)]

LOCAL BOARDS

The Reserve Bank Governor and a maximum of four Deputy Governors are also ex officio Directors on the Central Board. The Reserve Bank also has four Local Boards, constituted by the Central Government under the RBI Act, one each for the Western, Eastern, Northern and Southern areas of the country, which are located in Mumbai, Kolkata, New Delhi and Chennai. Each of these Boards has five members appointed by the Central Government for a term of four years and thereafter until his successor is appointed. They are eligible for re-appointment. The members of the Local Board shall elect from amongst themselves one person to be the Chairman of the Board. These Boards represent territorial and economic interests of their respective areas, and advise the Central Board on matters, such as, issues relating to local cooperative and indigenous banks. They also perform other functions that the Central Board may delegate to them.

FUNCTIONS OF THE RESERVE BANK



The purposes for which the Reserve Bank of India established as India's central bank have been spelt out in the preamble to the RBI Act, which states as follows:

(i) to regulate the issue of banknotes and the keeping of reserves with a view to securing monetary stability in India and generally to operate the currency and credit system of the country to its advantage; and

(ii) that it is essential to have a modern monetary policy framework to meet the challenge of an increasingly complex economy

The functions of the Reserve Bank of India can be summarized as under:

- *Banking Functions*
- *Issue bank notes*
- *Monetary Policy Functions*
- *Public Debt Functions*

- Foreign Exchange Management
- Banking Regulation & Supervision
- Regulation and Supervision of NBFCs
- Regulation & Supervision of Co-operative banks
- Regulation of Derivatives and Money Market Instruments
- Payment and Settlement Functions
- Consumer Protection Functions
- Financial Inclusion and Development Functions

BANKING FUNCTIONS

The general superintendence and direction of the affairs and business of RBI is entrusted to Central Board having nominees from the Central Government and Directors appointed under Section 8 of the RBI Act. The Board of RBI is headed by the Governor and assisted by not more than four Deputy Governors.

The Board exercises all powers and does all acts and things which may be exercised by the RBI. Section 17 of the RBI Act enables RBI to do banking business, It states that RBI may transact various businesses such as acceptance of deposits without interest from Central Government and State Governments, purchase, sale and rediscount of Bills of Exchange, short term Loans and Advances to banks, annual Contributions to National Rural Credit Funds, dealing in Derivatives, purchase and sale of Government Securities, purchase and sale of shares of State Bank of India, National Housing Bank, Deposit Insurance and Credit Guarantee Corporation, etc, making and issue of Banknotes, etc.

Similarly, Section 18 facilitates the RBI to act as a 'Lender of Last Resort'; whereas Section 19 states the list of businesses which the RBI may not transact. This apart, the provisions of RBI Act enable the RBI to act as banker to Central Government and State Governments. Under Sections 20 and 21 the RBI shall have an obligation and right respectively to accept monies for account of Central Government and to make payments up to the amount standing to the credit of its account, and to carry out its exchange, remittance and other banking operations, including the management of public debt of the Union.

ISSUE FUNCTIONS

RBI has the sole right to issue currency notes/bank notes in India. The issue function of bank notes is performed by the Issue Department, which is separated and kept wholly distinct from Banking Department. RBI issue all the currency except one rupee notes and coins which are issued by the Ministry of Finance. Currency notes issued by the Reserve Bank are declared unlimited legal tender throughout the country.

*Note: **RBI** has a separate dedicated department called 'Department of Currency Management' for this function.*

Recommendation of RBI to Government

RBI recommends Central Government the denomination of bank notes.

RBI recommends CG for design, form and material of bank notes.

RBI also carries out the following functions:

It ensures an adequate supply of clean and genuine notes.

RBI along with the Government is responsible for designing, production & management of currency of the country.

Denomination of the Notes

At present, notes in India are issued in the denomination of Rs. 5, Rs. 10, Rs. 20, Rs. 50, Rs. 100, Rs. 200, Rs. 500 and Rs. 2,000. The printing of Re. 1 and Rs. 2 denominations has been discontinued (Notes in these denominations issued earlier are still valid and in circulation).

MONETARY POLICY FUNCTION

The Central Government, in consultation with the RBI shall determine the inflation target in terms of the Consumer Price Index, once in every five years, which needs to be notified in the Official Gazette. Similarly, it is the Central Government that should constitute a Monetary Policy Committee by notification in the Official Gazette.

The Monetary Policy Committee consists of

(a) the Governor of the RBI;

(b) Deputy Governor of the RBI in charge of Monetary Policy;

(c) one officer of the RBI to be nominated by the Central Board; and

(d) three persons to be appointed by the Central Government.

The Monetary Policy Committee has been entrusted with the statutory duty to determine the Policy Rate required to achieve the inflation target. The decision of the Monetary Policy Committee is binding on RBI and the RBI is required publish a document explaining the steps to be taken to implement the decisions of the Monetary Policy Committee. The meetings of the MPC are required to be held at least 4 times a year and its decisions to be published after each meeting.

PUBLIC DEBT FUNCTIONS

RBI manages the public debt functions and its procedures. For this the Parliament has enacted the Government Securities Act, 2006 ('GS Act') with an objective to consolidate and amend the law relating to Government securities and its management by the Reserve Bank of India. This Act prescribes the procedure and modalities to be followed by RBI in the management of public debt.

Note: RBI also has the power to determine the title to a Government security if there exists any doubt in the opinion of RBI.

Special Note: GS Act provides that no order made by RBI under this Act shall be called in question by any Court.

FOREIGN EXCHANGE MANAGEMENT

The powers and responsibilities with respect to external trades and payments, development and maintenance of foreign exchange market in India have been conferred on RBI under the provisions of Foreign Exchange Management Act, 1999 ('FEMA'). Section 10 of the FEMA empowers the RBI to authorize any person to be known as authorized person to deal in foreign exchange or in foreign securities, as an authorized dealer, money changer or off-shore banking unit or in any other manner as it deems fit. Similarly, FEMA empowers the RBI to revoke an authorization issued to an authorized dealer in public interest, or if the authorized person has failed to comply with the conditions subject to which the authorization was granted or has contravened any of the provisions of the FEMA or any rule, regulation, notification, direction or order issued by the RBI. However, the revocation of an authorization may be done by the RBI after following the prescribed procedure in FEMA or the Regulations made thereunder. Section 13 of the FEMA details out the contraventions and penalties, and the RBI has been empowered with the power to compound such contraventions under Section 15 of the FEMA.

BANKING REGULATION & SUPERVISION

The power to regulate and supervise banks has been provided to RBI under the provisions of Banking Regulation Act, 1949, which includes:

Banking policy to be issued by RBI in the interest of banking system or in the interest of monetary stability or sound economic growth.

RBI has following powers with respect of Board of Banking Company:

It may appoint Chairman or Managing Director of a banking company for the reasons stated therein.

It may appoint additional directors on the boards of banking companies.

Power to remove the managerial persons as well.

Power to supersede the board of banking companies.

It has power to control advances by banking companies.

RBI has the power to issue license and also to cancel licenses of banking companies.

RBI has the power to issue directions to banking companies in following circumstance:

- In public interest, or
- In the interest of banking policy, or
- To prevent the affairs of any banking company being conducted in a manner detrimental to the interests of the depositors or in a manner prejudicial to the interests of banking company, or
- To secure the proper management of any banking company.

RBI has power to inspect banking companies on its own or at the instance of Central Government.

REGULATION AND SUPERVISION OF NBFCS

RBI regulates the business of NBFC's in India and its powers includes the following:

Register NBFC and issuing Certificate of Registration.

RBI has power to regulate or prohibit issue of prospectus or advertisements soliciting deposits of money by non-banking financial companies.

RBI has power to call for information from NBFC.

RBI may issue directions to NBFC.

Lay down policy for NBFC.

Issue Regulations for NBFC.

Inspect, regulate, supervise and exercise surveillance over NBFCs.

Penalize NBFCs for violating the provisions of the RBI Act or the directions or orders issued by RBI.

Cancelling the Certificate of Registration issued to the NBFC.

Filing a winding-up petition for NBFC.

REGULATION & SUPERVISION OF CO-OPERATIVE BANKS

RBI has been entrusted with the following powers with respect to Co-operatives Banks:

Powers to issue licenses,

Power to cancel licenses of co-operative banks,

Power to supersede their boards,

Power to inspect, and

Power to issue directions to them in the public interest, interest of banking policy, control over loans and advances, etc.

Jurisdiction of Union v. State on Co-operative Banks

The entry relating to Cooperative Societies fall in State List whereas the entry relating to banking falls in the Union List. This results in the duality of jurisdiction over cooperative banks. Therefore, both by RBI (As per of Banking Regulation Act, 1949), and the Registrar of Cooperative Societies (As per State Cooperative Societies Act) has jurisdiction over them. This at times may lead to confusion, which was resolved in the following case law.

Case Law: *Janata Sahakari Bank Ltd. v. State of Maharashtra*

Fact: There was a confusion regarding jurisdiction of RBI or Registrar of Cooperative Societies due to the item of 'banking' being in Union List and 'societies' being in State List.

Judgement: Bombay High Court has held that though the control over management of Co-operative Society where it is Cooperative Banking Society or otherwise is vested in the

Registrar of Co-operative Societies, but insofar as banking is concerned, by virtue of the Banking Regulation Act, 1949, it will be a subject matter of RBI.

Regulation of Derivatives and Money Market Instruments

RBI has power to regulate the transactions relating to derivatives, money market instruments, securities, etc.

Note:

Derivative means an instrument to be settled at a future date, whose value is derived from an underlying asset.

PAYMENT AND SETTLEMENT FUNCTIONS

The Parliament of India enacted the Payment and Settlement Systems Act, 2007 ('PSS Act, 2007') with an objective to provide for the regulation and supervision of payment systems in India and to designate

Reserve Bank of India as the authority for that purpose and for matters connected therewith or incidental thereto. Under Section 4 of the PSS Act, 2007, no person shall commence or operate a payment system except with an authorization issued by the RBI.

Similarly, under Section 8 of the PSS Act, 2007, RBI has the powers to revoke the authorization granted to any person if it contravenes any of the provisions of PSS Act or does not comply with the regulations or fails to comply with the orders or directions issued by the RBI or operates the payment system contrary to the conditions subject to which the authorization was issued. The regulation and supervision of payment systems has been conferred on the RBI by virtue of provisions of Chapter IV f PSS Act, 2007. The regulatory and supervisory controls include the power to determine standards for the functioning of payment systems, power to call for returns, documents or other information, power to enter and inspect payment systems, power to carry out audit and inspections, power to issue directions, etc.

CONSUMER PROTECTION FUNCTIONS

In India, although the provisions of the BR Act, 1949, requires the RBI to bear in mind the vital issue of protection of depositors' interests while granting a banking license or cancellation thereof, giving directions on advances o on any banking matter, applying for suspension, winding up, or amalgamation of banks, approving appointment of CEOs or additional directors, removal of CEOs, etc., there is no specific provision under the BR Act, 1949, or any of the other statutes for forming a formal mechanism for redressal of grievances of depositors. In the absence of a specific provision for the purpose, RBI has resorted to its powers under Section 35-A of the BR Act, 1949, to formulate the Banking Ombudsman Scheme for the redressal of grievances of depositors.

FINANCIAL INCLUSION AND DEVELOPMENT FUNCTIONS

The mushrooming of unauthorized and unregulated money lenders in the financial system of the country necessitated the RBI to do something more than what has been provided in the Rule books. Financial literacy or financial inclusion, though, not explicitly expressed in the RBI Act, 1934, or the BR Act, 1949, subsection (16) of Section 17 of the RBI Act, 1934, enables RBI to do all such matters and things as may be incidental to or consequential to the exercise of its powers or the discharge of its duties under the Act. Further, India being a country with significant illiteracy, there remains an obligation on the part of the 'State' to educate the people and also to include them into the organised financial system of the country to get the benefits of professional banking system of the country. The amendment to the BR Act, 1949, inserting Section 26-A is a step towards achieving this objective, which makes it amply clear that the statute casts a responsibility on the RBI to focus towards achieving financial literacy in the country. Not only the BR Act, 1949, even the RBI Act, 1934 , mandates the RBI to maintain expert staff to study various aspects of rural credit and development, which emphasizes the premier role to be played by RBI in promoting financial literacy and financial inclusion among the citizens living even in the remote areas of the country.

RIGHT TO ISSUE BANK NOTES

Management of currency is one of the core central banking functions of the Reserve Bank for which it derives the necessary statutory powers from Section 22 of the RBI Act, 1934. Along with the Government of India, the Reserve Bank is responsible for the design, production and overall management of the nation's currency, with the goal of ensuring an adequate supply of clean and genuine notes. In consultation with the Government, the Reserve Bank routinely addresses security issues and targets ways to enhance security features to reduce the risk of counterfeiting or forgery of currency notes.

The Paper Currency Act of 1861 conferred upon the Government of India the monopoly of issuing note, thus ending the practice of private and presidency banks issuing currency. Between 1861 and 1935, the Government of India managed the issue of paper currency. In 1935, when the Reserve Bank began operations, it took over the function of note issue from the Office of the Controller of Currency, Government of India.

DENOMINATIONS OF NOTES

The Indian Currency is called the Indian Rupee (abbreviated as Re. in singular and Rs. in plural), and its sub-denomination the Paisa (plural Paise). At present, notes in India are issued in the denomination of Rs. 5, Rs. 10, Rs. 20, Rs. 50, Rs. 100, Rs. 200, Rs. 500 and Rs. 2,000. The printing of Rs. 1 and Rs. 2 denominations has been discontinued. However, notes in these denominations issued earlier are still valid and in circulation. The Reserve Bank is also authorised to issue notes in the denominations of five thousand rupees and ten thousand rupees or any other denomination, but not exceeding ten thousand rupees that the Central Government may specify. Thus, in terms of Section 24 of RBI Act 1934, notes in denominations higher than ten thousand rupees cannot be issued. The Central Government may, on the recommendation of the Central Board, direct the non-issue or the discontinuance of issue of bank notes of such denominational values as it may specify in this behalf. The Government of India announced the demonetisation of Rs. 500 and Rs. 1000 bank notes with effect from midnight of November 8, 2016, making these notes invalid. A newly redesigned series of Rs. 500 banknote, in addition to a new denomination of Rs. 2000 banknote is in circulation since 10 November 2016.

LEGAL TENDER CHARACTER OF NOTES

Section 24 sub-section (1) of the Act states that subject to the provisions of sub-section (2), every bank note shall be legal tender at any place in India in payment or on account for the amount expressed therein, and shall be guaranteed by the Central Government.

Sub-section 2 empowers the Central Government, on recommendation of the Central Board, by notification in the Gazette of India to declare that, with effect from such date as may be specified in the notification, any series of bank notes of any denomination to cease to be legal tender save at such office or agency of the Bank and to such extent as may be specified in the notification.

CURRENCY DISTRIBUTION

The Government of India on the advice of the Reserve Bank decides on the various denominations of the notes to be printed. The Reserve Bank coordinates with the Government in designing the banknotes, including their security features.

The printed notes received from Printing Press set up by Government and RBI are issued for circulation both through remittances to banks as also the Reserve Bank counters.

COIN DISTRIBUTION

The Indian Coinage Act, 1906 governs the minting of rupee coins, including small coins of the value of less than one rupee. Coins are legal tender in India for unlimited amounts. Fifty paisa coins are legal tender for any sum not exceeding ten rupees and smaller coins for any sum not exceeding one rupee. The Reserve Bank acts as an agent of the Central Government for distribution, issue and handling of the coins and for withdrawing and remitting them back to Government as may be necessary.

COMBATING COUNTERFEITING

The Reserve Bank, in consultation with the Government of India, periodically reviews and upgrades the security features of the bank notes to deter counterfeiting. It also shares information with various law enforcement agencies to address the issue of counterfeiting. It has also issued detailed guidelines to banks and government treasury offices on how to detect and impound counterfeit notes.

Bank exempt from stamp duty on bank notes

The Bank is not liable to the payment of any stamp duty under the Indian Stamp Act, 1899, in respect of bank notes issued by it {section 29].

POWERS OF CENTRAL GOVERNMENT TO SUPERSEDE CENTRAL BOARD

Section 30 Sub section (1) of the states that if in the opinion of Central Government the Bank fails to carry out any of the obligations imposed on it by or under the Act, by notification in the Gazette of India, declare the Central Board to be superseded, and thereafter the general superintendence and direction of the affairs of the Bank shall be entrusted to such agency at the Central Government may determine, and such agency may exercise the powers and do all acts and things which may be exercised or done by the Central Board under the Act.

As per sub section 2 of this section when action is taken under this section the Central Government shall cause a full report of the circumstances leading to such action and of the action taken to be laid before Parliament at the earliest possible opportunity and in any case within three months from the issue of the notification superseding the Board.

BANKER TO THE CENTRAL GOVERNMENT & STATE GOVERNMENTS

Reserve Bank acts as banker to all the State Governments in India, except Jammu & Kashmir and Sikkim. It has limited agreements for the management of the public debt of these two State Governments. As a banker to the Government, the Reserve Bank receives and pays money on behalf of the various Government departments.

The Reserve Bank also undertakes to float loans and manage them on behalf of the Governments. It also provides Ways and Means Advances - a short-term interest bearing advance - to the Governments, to meet the temporary mismatches in their receipts and payments. Besides, it arranges for investments of surplus cash balances of the Governments as a portfolio manager. The Reserve Bank also acts as adviser to Government, whenever called upon to do so, on monetary and banking related matters.

The banking functions for the governments are carried out by the Public Accounts Departments at the offices /branches of the Reserve Bank, while management of public debt including floatation of new loans is done at Public Debt Office at offices/branches of the Reserve Bank and by the Internal Debt Management Department at the Central Office.

MANAGEMENT OF PUBLIC DEBT

The Reserve Bank manages the public debt and issues new loans on behalf of the Central and State Governments. It involves issue and retirement of rupee loans, interest payment on the loan and operational matters about debt certificates and their registration.

The union budget decides the annual borrowing needs of the Central Government. Parameters, such as, interest rate, timing and manner of raising of loans are influenced by the state of liquidity and the expectations of the market. The Reserve Bank's debt management policy aims at minimising the cost of borrowing, reducing the roll-over risk, smoothening the maturity structure of debt, and improving depth and liquidity of Government securities markets by developing an active secondary market.

RESERVE BANK AS BANKER TO BANKS

RBI plays the role of bankers' bank in following manner:-

RBI has current accounts of the banks and also holds a part of the cash reserves of commercial banks (Commercial Banks are required to deposit cash reserve to the RBI, RBI declares Cash Reserve ration in order to control credit in the economy).

RBI lends funds to Commercial Banks.

- It re-discounts bills of exchange which are discounted by other Banks.
- RBI may periodically inspects banks and asks them for returns and necessary information.

In addition, the Reserve Bank has also introduced the Centralised Funds Management System (CFMS) to facilitate centralised funds enquiry and transfer of funds across Deposit Accounts Department (DADs). This helps banks in their fund management as they can access information on their balances maintained across different DADs from a single location.

Lender of Last Resort: *The commercial banks approach RBI in times of emergency & financial difficulties. It is RBI who comes to their rescue when no one else is ready to extend credit to them.*

PRUDENTIAL NORMS FOR BANKS

Capital Adequacy: The Reserve Bank has instructed banks to maintain adequate capital on a continuous basis. The adequacy of capital is measured in terms of Capital to Risk- Weighted Assets Ratio (CRAR).

Loans and Advances:

RBI requires banks to classify their loan assets as performing and non-performing assets (NPA), based on the record of recovery from the borrowers.

Note: A non-performing asset (NPA) refers to a classification for loans or advances that are in default of payment of interest or principal or both.

NPAs depending upon age of the NPAs are further categorised into:

- Sub-standard,
- Doubtful, and Loss Assets

Banks are also required to make appropriate provisions against each category of NPAs.

Investments: The Reserve Bank requires banks to classify their investment portfolios into three categories for the purpose of valuation:

Held to Maturity (HTM),

Available for Sale (AFS), and

Held for Trading (HFT).

The securities held under HFT and AFS categories have to be marked-to-market periodically (means they are recorded at market price) and depreciation, if any, needs appropriate provisions by banks. Securities under HTM category must be carried at acquisition/amortised cost, subject to certain conditions.

FOREIGN EXCHANGE RESERVES MANAGEMENT

The Reserve Bank, as the custodian of the country's foreign exchange reserves, is vested with the responsibility of managing their investment. The legal provisions governing management of foreign exchange reserves are laid down in the Reserve Bank of India Act, 1934.

The Reserve Bank's reserves management function has in recent years grown both in terms of importance and sophistication for two main reasons. First, the share of foreign currency assets in the balance sheet of the Reserve Bank has substantially increased. Second, with the increased volatility in exchange and interest rates in the global market, the task of preserving the value of reserves and obtaining a reasonable return on them has become challenging. The basic parameters of the Reserve Bank's policies for foreign exchange reserves management are safety, liquidity and returns.

Within this framework, the Reserve Bank focuses on:

(a) Maintaining market's confidence in monetary and exchange rate policies.

(b) Enhancing the Reserve Bank's intervention capacity to stabilise foreign exchange markets.

(c) Limiting external vulnerability by maintaining foreign currency liquidity to absorb shocks during times of crisis, including national disasters or emergencies.

(d) Providing confidence to the markets that external obligations can always be met, thus reducing the costs at which foreign exchange resources are available to market participants.

(e) Adding to the comfort of market participants by demonstrating the backing of domestic currency by external assets.

While safety and liquidity continue to be the twin-pillars of reserves management, return optimization has become an embedded strategy within this framework. The Reserve Bank has framed policy guidelines stipulating stringent eligibility criteria for issuers, counterparties, and investments to be made with them to enhance the safety and liquidity of reserves. The Reserve Bank, in consultation with the Government, continuously reviews the reserves management strategies.

MARKET OPERATIONS

The Reserve Bank operationalises its monetary policy through its operations in government securities, foreign exchange and money markets.

Open Market Operations: Open Market Operations in the form of outright purchase/sale of Government securities are an important tool of the Reserve Bank's monetary management. The Bank carries out such operations in the secondary market on the electronic Negotiated Dealing System - Order Matching (NDS- OM) platform by placing bids and/or taking the offers for securities.

Liquidity Adjustment Facility Auctions: The liquidity management operations are aimed at modulating liquidity conditions such that the overnight rates in the money market remains within the informal corridor set by the repo and reverse repo rates for the liquidity adjustment facility (LAF) operations. In a repo transaction, the Reserve Bank infuses liquidity into the system by taking securities as collateral, while in a reverse repo transaction it absorbs liquidity from the system with the Reserve Bank providing securities to the counter parties.

Market Stabilisation Scheme: The Market Stabilisation Scheme (MSS) was introduced in April 2004 under which Government of India dated securities/treasury bills could be issued to absorb surplus structural/ durable liquidity created by the Reserve Bank's foreign exchange operations. MSS operations are a sterilisation tool used for offsetting the liquidity impact created by intervention in the foreign exchange markets.

PAYMENT AND SETTLEMENT SYSTEMS

Payment and Settlement Systems Act, 2007 ('PSS Act, 2007') was enacted with an objective to provide for the regulation and supervision of payment systems in India. The Act designated RBI as the authority for this purpose. Power of RBI under the Act includes the following:

- RBI has power to give authority to a person to commence or operate a payment system.
- RBI has the powers to revoke the authorization granted to any person if it contravenes any of the provisions of PSS Act; or
- does not comply with the regulations; or
- fails to comply with the orders or directions issued by the RBI; or

- operates the payment system contrary to the conditions subject to which the authorization was issued.

MONETARY POLICY MANAGEMENT

One of the most important functions of central banks is formulation and execution of monetary policy. In the Indian context, the basic functions of the Reserve Bank of India as enunciated in the Preamble to the RBI Act, 1934 are: "to regulate the issue of Bank notes and the keeping of reserves with a view to securing monetary stability in India and generally to operate the currency and credit system of the country to its advantage." Thus, the Reserve Bank's mandate for monetary policy flows from its monetary stability objective. Essentially, monetary policy deals with the use of various policy instruments for influencing the cost and availability of money in the economy. As macroeconomic conditions change, a central bank may change the choice of instruments in its monetary policy. The overall goal is to promote economic growth and ensure price stability.

MONETARY POLICY

Monetary policy refers to the policy of the central bank with regard to the use of monetary instruments under its control to achieve the goals specified in the Act. The Reserve Bank of India (RBI) is vested with the responsibility of adopting and implementing monetary policy. This responsibility is explicitly mandated under the Reserve Bank of India Act, 1934. The primary objective of monetary policy is to maintain price stability while keeping in mind the objective of growth. Price stability is a necessary precondition to sustainable growth.

MONETARY POLICY FRAMEWORK

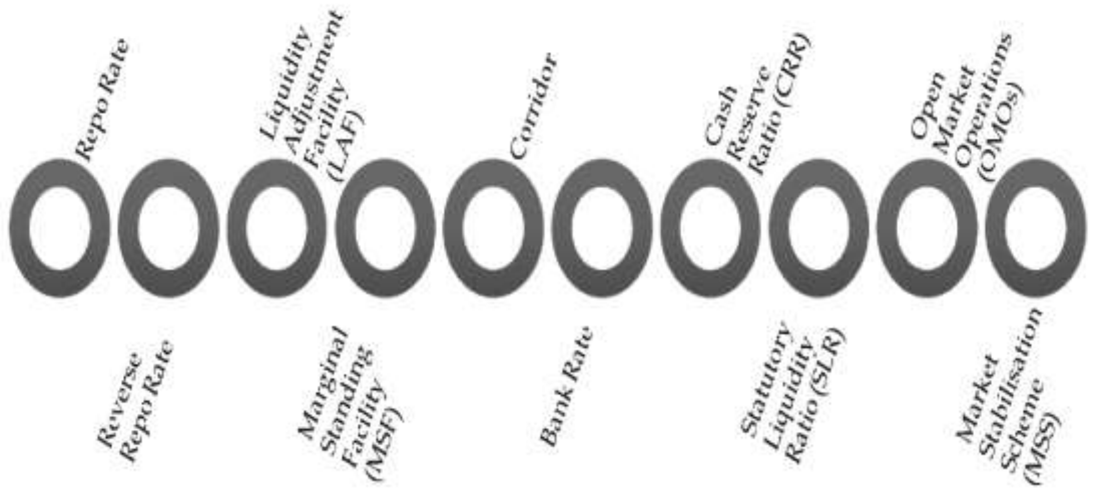
The RBI Act explicitly provides empowers the Reserve Bank to operate the monetary policy framework of the country.

- The framework aims at setting the policy (repo) rate based on an assessment of the current and evolving macroeconomic situation; and modulation of liquidity conditions to anchor money market rates at or around the repo rate. Repo rate changes transmit through the money market to the entire the financial system, which, in turn, influences aggregate demand - a key determinant of inflation and growth.

- *Once the repo rate is announced, the operating framework designed by the Reserve Bank envisages liquidity management on a day-to-day basis through appropriate actions, which aim at anchoring the operating target- the Weighted Average Call Rate (WACR) - around the repo rate.*
- *The operating framework is fine-tuned and revised depending on the evolving financial market and monetary conditions, while ensuring consistency with the monetary policy stance.*

INSTRUMENTS OF MONETARY POLICY

There are several direct and indirect instruments that are used for implementing monetary policy.



Instrument	Meaning	Impact
Repo Rate	It is the rate at which RBI lends money to commercial banks against securities in case commercial banks fall short of funds.	*Lower Repo Rate* If repo rates are low, commercial banks get more money therefore they will lend more money to people. When people will have more money it will lead to increase in demand in economy. Thus prices will increase. *Higher Repo Rate*

		If repo rates are high, commercial banks get less money therefore they will lend less money to people. When people will have less money it will lead to decrease in demand in economy. Thus prices will decrease.
Reverse Repo Rate	It is a rate at which RBI borrows money from commercial banks	If commercial banks will lend money to RBI, they will have less money to offer to people. When people will have less money it will decrease demand in economy. Thus prices will decrease.
Cash Reserve Ratio (CRR)	CRR is the minimum percentage of deposits with commercial banks that they need to deposit with the central bank of RBI.	Increase in CRR If CRR increases, commercial banks need to deposit more money with RBI. This will leave less money with commercial banks to offer as loans to people, which will make loans expensive. When people have less money to spend there will be low demand which in turn reduce the prices.

Instrument	**Meaning**	**Impact**
		Decrease in CRR If CRR decrease, commercial banks need to deposit less money with RBI. This will leave more money with commercial banks to offer as loans to people, which will make loans cheaper. When people have more money to spend there will be high demand which in turn increase the prices.
Statutory Liquidity	SLR is the amount which the commercial banks are required to maintain in safe	**Increase in SLR** If SLR increases, commercial banks need to keep more liquid funds. This will leave less

Ratio (SLR)	and liquid assets, such as, unencumbered government securities, cash and gold. It is the amount which the banks are not allowed to offer as loans.	money with commercial banks to offer as loans to people, which will make loans expensive. When people have less money to spend there will be low demand which in turn reduce the prices. **Decrease in SLR** If SLR decrease, commercial banks need to keep more liquid funds. This will leave more money with commercial banks to offer as loans to people, which will make loans cheaper. When people have more money to spend there will be high demand which in turn increase the prices.
Open Market operations	Open market operations (OMO) refer to the buying and selling of government securities in the open market in order to expand or contract the amount of money in the banking system.	**Sale of Securities** When Government sells securities, people pay money for it which flows money out of the economy to the RBI hence ejecting money out of the economy, leading to decrease in growth. **Purchase of Securities** When Government purchase back government securities, Government will pay money to the people and this will inject money into the economy and stimulate growth.
Marginal Standing Funding	Through this, scheduled commercial banks can get loans from RBI for their emergency needs, overnight. Commercial banks can take	**Lower MSF Rate** If MSF rates are low, commercial banks get more money therefore they will lend more money to people. When people will have more money it will lead to increase in

	loan only upto 1% of their liabilities and time deposits. Special Note: Repo rate and MSF are not the same. Following are the noticeable difference between the 2: Repo Rate is the rate at which the money is lent by	demand in economy. Thus prices will increase. **Higher MSF Rate** If MSF rates are high, commercial banks get less money therefore they will lend less money to people. When people will have less money it will lead to decrease in demand in economy. Thus prices will decrease.

Instrument	Meaning	Impact
	RBI to commercial bank on the other hand MSF is a rate at which money is lent by RBI to scheduled commercial banks. Repo rate is applicable to loans which are of shortterm nature. MSF is meant for lending overnight fund requirement.	
Bank Rate	It is the rate at which the Reserve Bank is ready to buy or rediscount bills of exchange or other commercial papers.	This rate has been aligned to the MSF rate and, therefore, changes automatically as and when the MSF rate changes.
Market Stabilization	Market Stabilization Scheme (MSS) is a monetary policy	MSS is used to withdraw excess liquidity or money from the system by selling government bonds.

Scheme (MSS)	introduced by the RBI to withdraw excess liquidity (or money supply) by selling government securities in the economy. The MSS was introduced in April 2004.	
Liquidity Adjustmen t Facility (LAF)	LAF is used to aid banks in adjusting the day to day mismatches in liquidity. LAF consists of repo (repurchase agreement) and reverse repo operations. Besides the usual repo and reverse repo, LAF includes auction-based repo and reverse repo (variable rate) tools for managing liquidity.	The LAF is aimed to inject liquidity into the system when there occur liquidity shortages. Simultaneously, it absorbs liquidity when there is excess liquidity. The mechanism is same as of repo and reverse repo.

CONSTITUTION OF MONETARY POLICY COMMITTEE

Section 45ZB of the Act states that:-

(1) The Central Government may, by notification in the Official Gazette, constitute a Committee to be called the Monetary Policy Committee of the Bank.

(2) The Monetary Policy Committee shall consist of the following Members, namely:—

(a) the Governor of the Bank—Chairperson, ex officio;

(b) Deputy Governor of the Bank, in charge of Monetary Policy—Member, ex officio;

(c) one officer of the Bank to be nominated by the Central Board—Member, ex officio; and

(d) three persons to be appointed by the Central Government—Members.

(3) The Monetary Policy Committee shall determine the Policy Rate required to achieve the inflation target.

(4) The decision of the Monetary Policy Committee shall be binding on the Bank.

MEETINGS OF MONETARY POLICY COMMITTEE

Section 45 of the Act states that:-

(1) The Bank shall organize at least four meetings of the Monetary Policy Committee in a year.

(2) The meeting schedule of the Monetary Policy Committee for a year shall be published by the Bank at least one week before the first meeting in that year.

(3) The meeting schedule may be changed only—

(a) by way of a decision taken at a prior meeting of the Monetary Policy Committee; or

(b) if, in the opinion of the Governor, an additional meeting is required or a meeting is required to be rescheduled due to administrative exigencies.

(4) Any change in meeting schedule shall be published by the Bank as soon as practicable.

(5) The quorum for a meeting of the Monetary Policy Committee shall be four Members, at least one of whom shall be the Governor and, in his absence, the Deputy Governor who is the Member of the Monetary Policy Committee.

(6) The meetings of the Monetary Policy Committee shall be presided over by the Governor, and in his absence by the Deputy Governor who is a Member of the Monetary Policy Committee.

(7) Each Member of the Monetary Policy Committee shall have one vote.

(8) All questions which come up before any meeting of the Monetary Policy Committee shall be decided by a majority of votes by the Members present and voting, and in the event of an equality of votes, the Governor shall have a second or casting vote.

(9) The Central Government may, if it considers necessary, convey its views in writing to the Monetary Policy Committee from time to time.

(10) The vote of each Member of the Monetary Policy Committee for a proposed resolution shall be recorded against such Member.

(11) Each Member of the Monetary Policy Committee shall write a statement specifying the reasons for voting in favour of, or against the proposed resolution.

(12) The procedure, conduct, code of confidentiality and any other incidental matter for the functioning of the Monetary Policy Committee shall be such as may be specified by the regulations made by the Central Board.

(13) The proceeding of the Monetary Policy Committee shall be confidential.

PENALTIES

(1) Whoever in any application, declaration, return, statement, information or particulars made, required or furnished by or under or for the purposes of any provisions of this Act, or any order, regulation or direction made or given thereunder or in any prospectus or advertisement issued for or in connection with the invitation by any person, of deposits of money from the public wilfully makes a statement which is false in any material particular knowing it to be false or wilfully omits to make a material statement shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(2) If any person fails to produce any book, account or other document or to furnish any statement, information or particulars which, under this Act or any order, regulation or direction made or given thereunder, it is his duty to produce or furnish or to answer any question put to him in pursuance of the provisions of this Act or of any order, regulation or direction made or given thereunder, he shall be punishable with fine which may extend to two thousand rupees in respect of each offence and if he persists in such failure or refusal, with further fine which may extend to one hundred rupees for every day, after the first during which the offence continues.

(3) If any person contravenes the provisions of section 31, he shall be punishable with fine, which may extend to the amount of the bill of exchange, hundi, promissory note or engagement for payment of money in respect whereof the offence is committed.

(4) If any person discloses any credit information, the disclosure of which is prohibited under section 45E, he shall be punishable with imprisonment for a term, which may extend to six months, or with fine, which may extend to one thousand rupees, or with both.

(4A) If any person contravenes the provisions of sub-section (1) of section 45-IA, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

(4AA) If any auditor fails to comply with any direction given or order made by the Bank under section 45MA, he shall be punishable with fine, which may extend to five thousand rupees.

(4AAA) Whoever fails to comply with any order made by the Company Law Board under sub-section (2) of section 45QA, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to a fine of not less than rupees fifty for every day during which such noncompliance continues.

(5) If any person, other than an auditor-

(a) receives any deposit in contravention of any direction given or order made under Chapter IIIB; or

(aa) fails to comply with any direction given or order made by the Bank under any of the provisions of Chapter IIIB; or

(b) issues any prospectus or advertisement otherwise than in accordance with section 45NA or any order made under section 45J, as the case may be, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend, -

(i) in the case of a contravention falling under clause (a), to twice the amount of the deposit received; and

(ii) in the case of a contravention falling under clause (b), to twice the amount of the deposit called for by the prospectus or advertisement.

(5A) If any person contravenes any provision of section 45S, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twice the amount of deposit received by such person in contravention of that section, or two thousand rupees, whichever is more, or with both:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the court, the imprisonment shall not be less than one year and the fine shall not be less than one thousand rupees.

(5B) notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to impose a sentence of fine in excess of the limit specified in that section on any person convicted under sub-section (5A).

If any other provision of this Act is contravened or if any default is made in complying with any other requirement of this Act or of any order, regulation or direction made or given or condition imposed thereunder, any person guilty of such contravention or default shall be punishable with fine which may extend to two thousand rupees and where a contravention or default is a continuing one, with further fine which may extend to one hundred rupees for every day after the first, during which the contravention or default continues. (Section 58B)

Our Publications

CS Executive

CS Professional

Website: www.yesacademy.co.in

Adv. Chirag Chotrani

Adv Chirag Chotrani is a young yet experienced faculty in the field of Law. From being the topper of his batch, to creating many All India Rankers in the Field of Company Secretary, Chirag has proved his academic capabilities time and again.

Chirag is a Commerce and Law Graduate and holds a Masters Degree in Corporate Law, earned specialisation in Corporate Laws and in Arbitration Law and is currently completing his PHd in Corporate Laws.

The ease with which this faculty introduces the concepts is commendable and every student who has studied under him has passed in his subjects with flying colours. From the start of his career till now he has always been into teaching and has served in many Prestigious Institutions and is presently the Top Educator for CS Category at UNACADEMY Platform which currently caters to 10 Million students across the country.

YES ACADEMY
Say Yes to CS

Office 30A, 1st Floor, Gate No. 1, Kumar Prestige Point,
Behind BSNL Office, Bajirao Road, Shukrawar Peth, Pune - 411 002

8888 235 235, 8888 545 545, 8888 569 569, 8888 280 280
yesacademypune@gmail.com

yesacademy.co.in
/yesacademyforcsandlaw
/yesacademyforcsandlaw
/yesacademyforcsandlaw