

# Bill Summary

## The Banking Regulation (Amendment) Bill, 2020

- The Banking Regulation (Amendment) Bill, 2020 was introduced in Lok Sabha on September 14, 2020. The Bill amends the Banking Regulation Act, 1949. The Act regulates the functioning of banks and provides details on various aspects such as licensing, management, and operations of banks. The Bill replaces the Banking Regulation (Amendment) Ordinance, 2020 promulgated on June 26, 2020.
- **Exclusions:** The Act does not apply to certain co-operative societies such as primary agricultural credit societies and co-operative land mortgage banks. The Bill amends this to state that the Act will not apply to: (i) primary agricultural credit societies and (ii) co-operative societies whose principal business is long term financing for agricultural development. Further, these societies must not use the words ‘bank’, ‘banker’ or ‘banking’ in their name or in connection with their business, or act as an entity that clears cheques.
- **Power to make a scheme for reconstruction or amalgamation without imposing moratorium:** Under the Act, RBI may, after placing a bank under moratorium, prepare a scheme for reconstruction or amalgamation of the bank to secure its proper management, or in the interest of depositors, general public or the banking system. Banks placed under moratorium do not face any legal action for up to six months. Further, banks cannot make any payment or discharge any liabilities during the moratorium.
- The Bill allows RBI to initiate a scheme for reconstruction or amalgamation without imposing a moratorium. If a moratorium is imposed, in addition to the existing restrictions, the Bill adds that banks cannot grant any loans or make investments in any credit instruments during the moratorium.
- **Issuance of shares and securities by co-operative banks:** The Bill provides that a co-operative bank may issue equity, preference, or special shares on face value or at a premium to its members or to any other person residing within its area of operation. Further, it may issue unsecured debentures or bonds or similar securities with maturity of ten or more years to such persons. Such issuance will be subject to the prior approval of the RBI, and any other conditions as may be specified by RBI.
- The Bill states that no person will be entitled to demand payment towards surrender of shares issued to him by a co-operative bank. Further a co-operative bank cannot withdraw or reduce its share capital, except as specified by the RBI.
- **Qualifications for management:** The Bill applies certain provisions of the Act to co-operative banks in relation its management. Under the Bill, co-operative banks cannot employ as Chairman, someone who is insolvent or has been convicted of a crime involving moral turpitude, among other restrictions. RBI may remove the Chairman if he is not fit and proper and appoint a suitable person if the bank does not do so.
- Further, the Board of Directors must have at least 51% of members with special knowledge or experience in areas such as accountancy, banking, economics or law. RBI may direct a bank to reconstitute its Board if it does not conform to the requirements. If the bank does not comply, RBI may remove individual directors and appoint suitable persons.
- **Power to exempt cooperative banks:** The Bill states that RBI may exempt a cooperative bank or a class of cooperative banks from certain provisions of the Act through notification. These provisions relate to restrictions of certain types of employment, qualifications of the Board of Directors and, appointment of a chairman. The time period and conditions for the exemption will be specified by RBI.
- **Supersession of Board of Directors:** The Act states that RBI may supersede the Board of Directors of a multi-state co-operative bank for up to five years under certain conditions. These conditions include cases where it is in the public interest for RBI to supersede the Board, and to protect depositors. The Bill adds that in case of a co-operative bank registered with the Registrar of Co-operative Societies of a state, RBI may supersede the Board of Directors after consultation with the concerned state government, seeking their comments within such period as specified by it.
- **Certain provisions omitted:** The Bill omits certain provisions from the Act. One of them relates to a restriction on a co-operative bank from making loans or advances on the security of its own shares. Further, it prohibits the grant of unsecured loans or advances to its directors, and to private companies where the bank’s directors or chairman is an interested party. The Act also specifies conditions when unsecured loans or advances may be granted and specifies the manner in which the loans may be reported to RBI. The Bill omits this provision from the Act.

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