



# B. R. Act, 1949 (AACCS)

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## Characteristics of Urban Cooperative Banks

- Registered under State Cooperative Societies Acts
- No controlling interest since the board of management is elected by share holders in a democratic manner
- One member one vote irrespective of number of shares held by a member
- Duality of command – RCS / CRCS and RBI





## Characteristics of UCBs (contd.)

- Borrowing restricted to members
- Restricted area of operation
- Share linking to borrowing
- No listing / no trading of shares
- Strong in helping financially weaker section





## Role of RBI

- Regulatory, Supervisory, Operational and Developmental Functions  
(Carried out through the Urban Banks Department)
- RBI derives authority to control and supervise the urban banks through the Banking Regulation Act, 1949 (As Applicable to Cooperative societies)





## B. R. Act - Parts

- Part I – Preliminary
- Part II – Business of Banking Company
  - ❑ PART II-A - CONTROL OVER MANAGEMENT
  - ❑ PART II-B - Prohibition of certain activities in relation to banking companies
  - ❑ PART II-C - Acquisition of the Undertakings of Banking Companies
- PART III - Suspension of Business and Winding up of Banking Companies
  - ❑ PART-III-A - Special Provisions for Speedy Disposal of Winding-up Proceedings
  - ❑ PART III-B - Provisions Relating to Certain Operations of Banking Companies
- PART IV - Miscellaneous
- PART V - Application of the Act to Co-operative Banks



## Provisions of B. R. Act, 1949

- Spelled out in Section 56 pf Part V of B. R. Act, 1949
- RBI regulates and supervises the UCBs vide the various provisions of the Act applicable to UCBs which is mainly relate to banking activities viz.
  - Requirement of minimum paid-up capital and reserves
  - Maintenance of cash reserve and liquid assets
  - Restrictions on loans and advances
  - Power to inspect the books of accounts
  - Power to give directions
  - The power to impose penalty





## Relevant Provisions of B. R. Act, 1949 (AACCS)

- Section 56
  - ❑ RBI exercises its regulatory, supervisory and developmental control on UCBs through the applicability of select provisions of the parent Act of this section from March 1966
  - ❑ The duality of control was extended automatically to the sector with the extension of the Act to the UCBs



## Not Authorized under B. R. Act

- The following powers are not prescribed to RBI under the B. R. Act, 1949 (AACCS):
  - Registration of cooperative banks
  - Constitution of Board of UCBs
  - Removal of directors
  - Superceding of the Board of Directors
  - Auditing of the cooperative banks
  - Enquiry into the affairs of the UCBs
  - Enquiry into the conduct of the CEO / Chairman / directors of UCBs
  - Winding up of UCBs





## General Definitions

- Co-operative Bank means a State Co-operative Bank, a Central Co-operative Bank and a Primary Co-operative Bank
- Primary Agricultural Credit Society means a Co-operative society:
  1. The primary object or principal business is to provide financial accommodation to its members for agricultural purposes or for purposes connected with agricultural activities &
  2. The bye-laws of which do not permit admission of any other co-operative society as a member

"central co-operative bank" means the principal co-operative society in a district in a State, the primary object of which is the financing of other co-operative societies in that district: Provided that in addition to such principal society in a district, or where there is no such principal society in a district, the State Government may declare any one or more co-operative societies carrying on the business of financing other co-operative societies in that district to be also or to be a central co-operative bank or central co-operative banks within the meaning of this definition;



## Important Sections

- Section 5 – Definitions
  - "banking" means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawal by cheque, draft, or otherwise;
  - "banking company" means any company which transacts the business of banking



## Section 5(ccv) – Definition of UCBs

- UCBs as a Cooperative Society, other than a primary agricultural credit society,
  - the principal business of which is to conduct banking business,
  - the paid-up share capital of which is not less than Rs. 1 lakh, and
  - the bye-laws of which do not permit any other cooperative society as its member
  - However, if a Cooperative Bank has subscribed to the share capital of such cooperative society out of funds provided by the State Government then it can become a member





## General Definitions (contd.)

- Primary Credit Society means a co-operative society other than a primary agricultural credit society :
  - The primary object or principal business is the transaction of banking business
  - The paid –up share capital and reserves of which are less than one lakh of rupees
  - The bye-laws of which do not permit admission of any other co-operative society as a member



## Important Sections

- Section 6 - Forms of business in which banking companies may engage
  - borrowing, raising, or taking up of money
  - acting as agents for any Government or local authority or any other person or persons
  - carrying on of agency business of any description including the clearing



## Important Sections (Contd.)

- Section 7 - Use of words "bank", "banker", "banking", or "banking company".
  - No company other than a banking company shall use as part of its name or in connection with its business any of the words "bank", "banker" or "banking" and no company shall carry on the business of banking in India unless it uses as part of its name at least one of such words



## Section 7 – Use of the word **Bank, Banker, Banking**

- Only cooperative banks are legally authorized to use the word bank, banker and banking
- The Act allows the usage of these names by a primary credit society, or a co-operative society formed for the protection of the mutual interest of cooperative banks or cooperative land mortgage banks, or any co-operative society, which is not being a primary credit society but is formed by the employees of commercial banks or a cooperative bank or a primary credit society or a cooperative land mortgage bank



## Important Sections (Contd.)

- Section 8 - Prohibition of trading
  - ❑ Notwithstanding anything contained in Sec. 6 or in any contract, no banking company shall directly or indirectly deal in the buying or selling or bartering of goods, except in connection with the realization of security given to or held by it



## Important Sections (Contd.)

- Section 9 - Disposal of non-banking assets
  - ❑ Notwithstanding anything contained in Sec. 6, no banking company shall hold any immovable property, howsoever acquired, except such as is required for its own use





## Section 11 – Minimum Paid-up Share Capital

- Minimum paid-up share capital required for UCBs to carry out banking business is Rs. 1 lakh





## Section 18 – Cash Reserve

- Non-Scheduled UCBs are required to maintain Cash Reserve Ratio on a daily basis in the following assets
  - Cash in hand and gold
  - Current Account balances with RBI and with State Cooperative Banks, District Central Cooperative Banks and in notified banks including State Bank of India and its subsidiaries, and nationalised banks
  - The present stipulation is to maintain 3 per cent of the net demand and time liabilities on a daily basis



## Section 18 – Cash Reserve (Contd.)

- Scheduled UCBs maintain CRR under the provisions of the Section 42 of the RBI Act, 1934
  - ❑ The present stipulation is to maintain 5 per cent of the Demand and Time Liabilities on an fortnightly average basis
  - ❑ The returns are to be submitted in Form B within 7 days of the from the reporting fortnight
  - ❑ They are required to maintain a minimum of 70 per cent of CRR balance on a daily basis
  - ❑ In case of shortfall in the maintenance of the required percentage of CRR, the amount of interest payable would be reduced by an amount calculated at the rate of 25 per cent per annum on the amount of shortfall
  - ❑ If penalty exceeds amount of interest payable then penalty is levied at 3 per cent above Bank Rate on the amount of shortfall for the first fortnight and at 5 per cent above the Bank Rate for the subsequent fortnights, if the default continues



## Section 19 – Restriction on Holding Shares

- No Cooperative Bank shall hold shares in any other cooperative society except to such extent and subject to such conditions as the Reserve Bank may specify in that behalf:
- Provided that nothing contained in this section shall apply to—
  - shares acquired through funds provided by the State Government for that purpose;
  - in the case of a Central Co-operative Bank, the holding of shares in the State Co-operative Bank to which it is affiliated;
  - in the case of a primary Cooperative Bank, the holding of shares in the Central Cooperative Bank of the State in which it is registered



## Section 20 – Restriction on Loans and Advances

- No UCBs can make loans against the security of its own shares
- No UCBs are allowed to grant unsecured loans and advances Directors and to any firms where any of the Directors is having interest
- Presently there is a complete ban on loans and advances to Directors and their relatives. However, the following categories of director related loans are presently permitted:
  - ❑ Regular employee-related loans to staff directors on the Board of UCBs
  - ❑ Normal loans as applicable to members to the directors on the Boards of salary earners' co-operative banks and
  - ❑ Normal employee-related loans to Managing Directors of Multi-State co-operative banks

Section 21-A - Rates of interest charged by banking companies not to be subject to scrutiny by Courts



## Section 22 and 23 – Bank and Branch Licensing of UCBs

- No co-operative society can carry on banking business unless
  - It is a primary credit society or
  - it is a co-operative bank and holds a license issued by RBI





## Revised Licensing Policy: Present Stance

- Annual Policy Statement 2004 – 05

**To consider issuance of fresh licences only after a comprehensive policy on UCBs, including an appropriate legal and regulatory framework for the sector, is put in place and a policy for improving the financial health of the urban co-operative banking sector is formulated early**





## Section 23 – Branch Licensing

- RBI's prior permission required for opening new branches; shifting branches
- Can open place of business within the area of operation temporarily for a month on the occasion of exhibition, conference / mela, etc.





## Section 23 – Branch Licensing (contd.)

- Annual Action Plan for branch expansion
- For eligibility, UCB should have achieved the following:
  - Net Profit for two preceding years
  - Net NPA < 8%
  - Priority sector target met
  - Owned funds to be more than entry point capital of the centre proposed for the branch
  - Compliance with BR Act/RBI Act provisions
- Mobile / satellite offices permitted to SUCBs
- Branches only to financially strong banks
- Branches on a highly restrictive basis
- Mergers & Amalgamations encouraged



## Section 23 – Branch Licensing (contd.)

- Area of Operation
  - Can be extended without RBI permission to the whole district of registration as also adjoining district within the same state
- For extending beyond adjoining districts, UCB should have achieved:
  - Prescribed CRAR level
  - Net profit for the preceding two years
  - NPA < 10%
  - Compliance with BR Act/RBI Act
  - Owned funds > EP capital level of the highest centre situated in the proposed area; For extending to other states, owned funds not less than Rs. 50 crore



## Section 24 – Statutory Liquidity Ratio

- Every UCB (scheduled/non-scheduled) is required to maintain liquid assets in the form of cash, gold or unencumbered approved securities which should not be less than 25 per cent of the total of its demand and time liabilities.
  - ❑ The present stipulation is to maintain 25 per cent of its demand and time liabilities in the form of cash, gold or unencumbered approved securities



## Section 24 – Statutory Liquidity Ratio

(Contd.)

- Scheduled UCBs are required to have 25 per cent of their holdings in Government and other approved securities.
- The non-scheduled UCBs with NDTL of Rs. 25 crore and above are required to have 15 per cent and those with NDTL less than Rs. 25 crore are required to have 10 per cent of their SLR holdings in Government and other approved securities



## Section 24 A- Power to Exempt

- The Reserve Bank may, by notification in the Official Gazette, declare that, for such period and subject to such conditions as may be specified in such notification the whole or any part of the provisions of Sec. 18 or Sec. 24, as may be specified therein, shall not apply to any Co-operative Bank or class of Co-operative Banks, with reference to all or any of the offices of such Co-operative Bank or banks, or with reference of the whole or any part of the assets and liabilities of such Co-operative Bank or Banks."



## Section 29 – Account and Balance Sheet

- At the end of each year UCBs are required to prepare balance-sheet and profit and loss account as on the last working day of the year in the forms set out in the Third Schedule or is near thereto
- To be submitted within 6 months

**Section 30 – Audit - Auditors to be appointed by the RBI not applicable for UCBs**

**Section 29 - Accounts and balance sheet - At the expiration of each calendar year or at the expiration of a period of twelve months every banking company shall prepare a balance sheet and profit and loss account, in the forms set out in the Third Schedule or as near thereto**

**Section 31- Submission of returns - The accounts and balance sheet referred to in Sec. 29 together with auditor's report shall be published in the prescribed manner and three copies thereof shall be furnished as returns to the Reserve Bank within three months from the end of period to which they refer**



## Section 35 – Inspection of UCBs

- RBI inspects basically to verify
  - if the conditions subject to which the banks have been issued licence to undertake banking business continued to be fulfilled
  - The bank has adequate capital structure (Section 11(1)) and earning prospects
  - It's affairs are not conducted in a manner detrimental to the interest of the present and future depositors (section 22(3) (b))
  - The general character of the management of the bank is not prejudicial to the public interest and the interest of the depositors.
  - The bank is in a position to pay its present and future depositors in full as and when the claim arise (section 22(3)(a) of B.R. Act, 1949 (AACCS))



## Section 35 – Inspection of UCBs (contd.)

- The inspection scheduled of the UCBs are as under
  - Scheduled UCBs - Once in a year
  - Grade I UCBs - Once in two years
  - Grade II UCBs - Once in 18 months
  - Grade III UCBs - Once in a year
  - Grade IV UCBs - Once in a year
  - RBI may also scrutinize the affairs / books & accounts of the bank.
- It may furnish a copy of the report only if a request is made by the bank or if any adverse action is contemplated against the bank



## Section 35 A – Power of the Reserve Bank to give Directions

- RBI may issue direction to UCBs if it is satisfied that in public interest or in the interest of the banking policy and to prevent the affairs of the bank from being conducted in a manner detrimental to the interest of the depositors and to secure proper management of the bank
  - ❑ *RBI derives its powers to order winding up of an UCB or its reconstruction only for the "eligible cooperative bank" stipulated under section 2(gg) of the DICGC Act, 1961*



## Section 36 – Further Powers of Reserve Bank

- RBI may caution / prohibit banks in general or particular from entering into any particular transaction or class of transactions or give advice to any bank
- Powers to RBI for reorganising and expansion of cooperatives
- Assistance to any banking company in form of a loan or advance
- Require an officer of the banking company to discuss any such matter with an officer of the Reserve Bank
- Depute one or more of its officers to watch the proceedings at any meeting of the Board of Directors



## Section 46 – Penalties

- If any deposits are received in contravention of Section 35{4-(a)}, every Director/Officer of the bank shall be punishable with fine which may extend to **twice the amount** of deposits unless he proves that the offence has taken place without his knowledge or he has exercised due diligence
- For contravention of any of the provisions of the Act by any person- fine of **Fifty thousand rupees or twice the amount involved whichever is more** and for continuing default, further fine of **two thousand and five hundred rupees**
- For any default, every person who was in charge of/ responsible to the bank shall be deemed guilty of default and is liable to be punished
- Default committed with the consent / connivance of any Director, Manager, Secretary or other Officer- same as above



## Section 46-A

- *Chairman, director, etc. to be public servants, for the purpose of Chapter IX of the Indian Penal Code*

Since co-operative societies are controlled, financed and managed by the State Government. Their employees will also become the 'public servant

Any authority which is under the control of the Government of India is a State within the purview of Art. 12. Nationalised Bank is an authority and is controlled by the Government of India and is instrumentality of Reserve Bank of India. It is a statutory body constituted under the Statute though registered under the Banking Act. Similarly, the word 'authorities' are very wide enough in Art. 12 of the Constitution of India and any authority which is an instrumentality or agency of the State falls within the purview of 'State' as defined in Art. 12 of the Constitution. Every employee of the State which falls within the purview of the 'State' as defined under Art. 12 automatically becomes the employee of the State. Every employee thus becomes the public employee because, he is an employee of the State. It will not be out of place to mention that number of co-operative societies are controlled, financed and managed by the State Government. Their employees will also become the 'public servant '



## Section 47 – Cognizance of Offences

- No Court shall take cognizance of any offence punishable under Section 46 except upon complaint in writing made by an officer of RBI





## Section 47 A – Power of Reserve Bank to Impose Penalty

- For 46 (1) a penalty of Rs. five lakh or twice the amount in default whichever is more and for continuing default a further penalty which may extend to Rs. 25, 000/ -
- For contravention of Section 46 (3) penalty is twice the amount of deposits
- Penalty to be payable within 14 days from the date on which notice is issued by the RBI and in case of failure to pay, may be levied by Principal Civil Court having jurisdiction in the area
- No complaint shall be filed against any bank in any Court in respect of penalty imposed by RBI for any contravention or default
- Particulars of statutory penalties and other specific supervisory actions should be disclosed – Press release by RBI and in the “Notes on Accounts” by the bank





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**Section 55 –**  
*Act 18 of 1891 & Act 46 of 1949 to apply in  
relation to Cooperative Banks*

- The Bankers' Books Evidence Act, 1891 shall apply in relation to a Co-operative Bank as it applies in relation to a bank as defined in Sec. 2 of that Act
- The Banking Companies (Legal Practitioners' Clients' Accounts) Act, 1949, shall apply in relation to a Co-operative Bank as it applies in relation to a banking company as defined in Sec. 2 of that Act."



**Thank You**