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BANKING LAWS (AMENDMENT) BILL, 2024: KEY INSIGHTS

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The Banking Laws (Amendment) Bill, 2024 (the "**2024 Bill**"), which was introduced in the Lok Sabha on August 9, 2024 and passed on December 3, 2024, seeks to modernize India's banking framework by amending five (5) important statutes: (i) Reserve Bank of India Act, 1934 (the "**RBI Act**"); (ii) Banking Regulation Act, 1949 (the "**Banking Act**"); (iii) State Bank of India Act, 1955; (iv) Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; and (v) Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

This update discusses the proposed changes and analyses their ramifications.

Key amendments

The 2024 Bill proposes certain key changes to, *inter alia*, enhance nomination rights of depositors and investors, standardize reporting to the Reserve Bank of India (the "**RBI**"), and extend directors' tenure in cooperative banks. Set out below are the key amendments in greater detail:

(i) **Relaxing "substantial interest":** The Banking Act currently sets a "substantial interest" threshold for directorships in banking companies, where an individual is deemed to hold substantial interest if he/she, his/her spouse, or minor child hold shares exceeding INR500,000 (Indian Rupees Five Hundred Thousand) or 10% of the paid-up capital. The 2024 Bill proposes increasing this threshold to INR20,000,000 (Indian Rupees Twenty Million), up from INR500,000 (Indian Rupees Five Hundred Thousand), or 10% of the paid-up capital. <u>This change will allow more individuals to qualify as directors in banking companies. It will also reduce regulatory scrutiny for smaller investments</u>.

(ii) **Directorships in central cooperative banks:** The 2024 Bill proposes to permit a director of a central cooperative bank to also serve on the board of a state cooperative bank. <u>This change enables such directors to actively participate in the decision-making processes at both, central and state levels</u>. Additionally, the 2024 Bill extends the permissible consecutive tenure for directors in cooperative banks (excluding chairpersons or whole-time directors) from eight (8) years to ten (10) years.

(iii) **Redefining reporting dates:** The 2024 Bill amends Section 42 of the RBI Act which regulates the cash reserve ratio maintained by scheduled banks with the RBI. Presently, banks calculate the average daily balance fortnightly, based on a fourteen (14)-day cycle from Saturday to the second Friday. The change redefines a fortnight as the 1st to the 15th or the 16th to the last day of a month. <u>This will ensure uniformity by fixing the calculation period to fixed calendar dates</u>. This change will apply to scheduled and non-scheduled banks.

(iv) **Nomination rights:** The 2024 Bill introduces key amendments related to nominations for the payment of depositors' money, return of articles kept in safe custody with a banking company, and release of contents of safety lockers. For depositors' money, the Banking Act currently allows a single nominee to be designated to receive the deposit in the event of the depositor's death. The 2024 Bill seeks to increase this to four (4) nominees and provides two (2) modes of nomination - successive nomination and simultaneous nomination.

In the case of successive nomination, only one (1) nominee is entitled to the deposit at a time, based on the order of priority specified as per the proposed Section 45ZG of the Banking Act. This Section states that the first nominee will be entitled if he/she survives the depositor(s). The second nominee's entitlement arises only upon the first nominee's death, and so on. If no order is specified, the sequence in which names appear in the nomination form will determine the order of entitlement.

For simultaneous nomination, all nominees share the deposit in the proportions provided by the nominator. The nomination must cover the entire deposit amount and specify the proportion for each nominee. If a nominee dies before receiving his/her share, that portion is treated as un-nominated and will be redistributed among the remaining nominees. Nominations that do not comply with these conditions will be considered invalid.

For articles kept in safe custody, the 2024 Bill permits depositors to nominate up to four (4) persons, but only through successive nomination. Similarly, for safety lockers, individuals can nominate up to four (4) successive nominees.

<u>These changes are important as deposits remain a key part of household savings, and a complicated settlement process after a depositor's death can disrupt family financial planning during crises. Designating nominees simplifies this process as it enables banks to release funds to nominees without requiring a succession certificate or verifying legal heirs' claims. However, nominees act as trustees and remain accountable to the legal heirs. Further, nomination does not equate to legal succession. Therefore, the inclusion of multiple nominees may create scope for disputes. To minimize confusion and potential litigation, it is recommended to align the nominees with the beneficiaries named in the depositor's will</u>.

(v) **Settlement of unclaimed amounts:** Presently, the banking laws require unpaid or unclaimed dividends to be moved to an unpaid dividend account. If the money in this account remains unclaimed for seven (7) years, it is transferred to the Investor Education and Protection Fund ("**IEPF**"). The 2024 Bill expands the types of funds that can be transferred to the IEPF. These now include: (a) shares where dividends have not been paid or claimed for seven (7) straight years, and (b) unpaid or unclaimed interest or redemption amounts for bonds for seven (7) years. Anyone whose shares or money are moved to the IEPF can claim them or request a refund.

(vi) **Remuneration of auditors:** The 2024 Bill empowers banks to decide the remuneration of their auditors, a responsibility which was previously held by the RBI in consultation with the central government. While the proposed change enhances financial autonomy for banks, the industry has expressed concerns that without addressing auditor appointment and rotation processes, the independence and quality of audits could be compromised.

Conclusion

The 2024 Bill proposes customer-centric changes such as an improved nomination system and overall, it introduces necessary amendments to align India's banking laws with modern day needs and to address future challenges. However, some aspects merit closer scrutiny. The increased threshold for "substantial interest" might reduce the scope of regulatory oversight in some cases, potentially allowing influential individuals or entities to bypass RBI scrutiny. Additionally, while decentralizing auditor remuneration decisions empowers banks, it may introduce the risk of conflicts of interest if not carefully monitored.