UNIT-IV

Banker and customer Relationship, Definition of banker and customer, Banker's duty of secrecy, banker's duty to honour cheques, banker's lien, and banker's right to setoff- Appropriation of payments, Customer's duties towards his banker. Opening of New Accounts, Minor's A/C, Joint A/C, Partnership A/C, Company's A/C, Married women's A/C, Trust A/C, Joint Hindu family A/C **(15L)**

INTRODUCTION

The relationship between a banker and his customer depends upon the nature of service provided by a banker. Accepting deposits and lending and/or investing are the core banking businesses of a bank. In addition to its primary functions, it deals with various customers by providing other services like safe custody services, safe deposit lockers, and assisting the clients by collecting their cheques and other instruments as an agent and trustees for them. So, based on the above a banker customer relationship can be classified as
under:
Debtor/Creditor
Creditor/Debtor
Bailee/Bailer
Lesser/Lessee
Agent/Principal
From the above diagram it can be seen that different types of relationship exists between a banker and customer.

A banking company is defined as a company which transacts the business of banking in India . Section 5 (b) of The Banking Regulation Act, 1949 defines the term banking as "accepting for the purpose of lending or investment of deposits of money from the public, repayable on demand or otherwise and withdrawable by cheque, draft, order or otherwise.
Section -7 of this Act makes it essential for every company carrying on the business of banking in India to use as part of its name at least one of the words – bank, banker, banking or banking company. Section 49A of the Act prohibits any institution other than a banking company to accept deposit money from public withdrawable by cheque. The essence of banking business is the function of accepting deposits from public with the facility of withdrawal of money by cheque. In other words, the combination of the functions of acceptance of public deposits and withdrawal of the money by cheques by any institution cannot be performed without the approval of Reserve Bank.

Features of Banking

The following are the basic characteristics to capture the essential features of Banking:

(*i*) **Dealing in money**: The banks accept deposits from the public and advance the same as loans to the needy people. The deposits may be of different types - current, fixed, savings, etc. accounts. The deposits are accepted on various terms and conditions.
(*ii*) **Deposits must be withdrawable**: The deposits (other than fixed deposits) made by the public can be withdrawable by cheques, draft or otherwise, *i.e.,* the bank issue and pay cheques. The deposits are usually withdrawable on demand.
(*iii*) **Dealing with credit**: The banks are the institutions that can create credit *i.e.,* creation of additional money for lending. Thus, "creation of credit" is the unique feature of banking.
(*iv*) **Commercial in nature**: Since all the banking functions are carried on with the aim of making profit, it is regarded as a commercial institution.
(*v*) **Nature of agent**: Besides the basic function of accepting deposits and lending money as loans, bank possesses the character of an agent because of its various agency services.

The term 'customer' of a bank is not defined by law. Ordinarily, a person who has an account in a bank is considered is customer. Banking experts and the legal judgments in the past, however, used to qualify this statement by laying emphasis on the period for which such account had actually been maintained with the bank.
In Sir John Paget's view "to constitute a customer there must be some recognizable course or habit of dealing in the nature of regular banking business." This definition of a customer of a bank lays emphasis on the duration of the dealings between the banker and the customer and is, therefore, called the 'duration theory'. According to this viewpoint a person does not become a customer of the banker on the opening of an account; he must have been
accustomed to deal with the banker before he is designated as a customer. The above-mentioned emphasis on the duration of the bank account is now discarded. According to Dr. Hart, "a customer is one who has an account with a banker or for whom a banker habitually undertakes to act as such." Supporting this viewpoint, the Kerala
High Court observed in the case of *Central Bank of India Ltd. Bombay vs. V.Gopinathan Nair and others (A.I.R.,1979, Kerala 74) :* "Broadly speaking, a customer is a person who has the habit of resorting to the same place or person to do business. So far as banking transactions are concerned he is a person whose money has been accepted on the footing that banker will honour up to the amount standing to his credit, irrespective of his connection being of
short or long standing."
For the purpose of KYC policy, a 'Customer' is defined as :
– a person or entity that maintains an account and/or has a business relationship with the bank;
– one on whose behalf the account is maintained (i.e. the beneficial owner);
– beneficiaries of transactions conducted by professional intermediaries, such as Stock Brokers, Chartered Accountants, Solicitors etc. as permitted under the law, and
– any person or entity connected with a financial transaction which can pose significant reputational or other risks to the bank, say, a wire transfer or issue of a high value demand draft as a single transaction.
Thus, a person who has a bank account in his name and for whom the banker undertakes to provide the facilities as a banker, is considered to be a customer. It is not essential that the account must have been operated upon for some time. Even a single deposit in the account will be sufficient to designate a person as customer of the banker. Though emphasis is not being

laid on the habit of dealing with the banker in the past but such habit may be expected to be developed and continued in figure. In other words, a customer is expected to have regular dealings with his banker in future.

An important consideration which determines a person's status as a customer is the nature of his dealings with a banker. It is evident from the above that *his dealings with the banker must be relating to the business of banking.*

A banker performs a number of agency functions and tenders various public utility services besides performing essential functions as a banker. A person who does not deal with the banker in regard to the essentials functions of the banker, i.e.. accepting of deposits and lending of money, but avails of any of the services rendered by the banker, is not called a customer of the banker. For example, any person without a bank account in his name may remit money through a bank draft, encash a cheque received by him from others or deposit his valuables in the Safe Deposit Vaults in the bank or deposit cash in the bank to be credited to the account of the Life Insurance Corporation or any joint stock company issuing new shares. But he will not be called a customer of the banker as his dealing with the banker is not in regard to the essential functions of the banker. Such dealings are considered as casual dealings and are not in the nature of banking business.

Thus, to constitute a customer the following essential requisites must be fulfilled:

(i) a bank account – savings, current or fixed deposit – must be opened in his name by making necessary deposit of money, and

(ii) the dealing between the banker and the customer must be of the nature of banking business.

A customer of a banker need not necessarily be a person. A firm, joint stock company, a society or any separate legal entity may be a customer. Explanation to Section 45-Z of the Banking Regulation Act, 1949, clarifies that section "customer" includes a Government department and a corporation incorporated by or under any law.

Since the banker-customer relationship is contractual, a bank follows that any person who is competent to contract can open a deposit account with a bank branch of his/her choice and convenience. For entering into a valid contract, a person needs to fulfill the basic requirements of being a major (18 years of age or above) and possessing sound mental health (*i.e.* not being a lunatic). A person who fulfils these basic requirements, as also other requirements of the banks as mentioned below, can open a bank account. However, minors (below 18 years of age) can also open savings account with certain restrictions. Though any person may apply for opening an account in his name but the banker reserves the right to do so on being satisfied about the identity of the customer.

By opening an account with the banker, a customer enters into relationship with a banker. The special features of this relationship impose several obligations on the banker. He should, therefore, be careful in opening an account in his name but the banker reserves the right to do so on being satisfied about the identity of the customer. Prior to the introduction of "Know Your Customer (KYC)" guidelines by the RBI, it was the practice amongst banks to get a new customer introduced by a person who has already one satisfactory bank account with the Bank or by a staff member who knows him properly. Most of the banks preferred introduction to be given by a current account holder. Different practices of various banks were causing confusion and sometimes loss to the bank on not opening "properly" introduced account when any fraud

took place in the account. A new customer was also facing difficulty in opening an account if he was a new resident of that area. To overcome all these problems and streamline the system of knowing a customer, RBI has directed all banks to adopt KYC guidelines.

Obligation to maintain Secrecy of Account

The account of the customer in the books of the banker records all of his financial dealings with the latter and the depicts the true state of his financial position. If any of these facts is made known to others, the customer's reputation may suffer and he may incur losses also. The banker is, therefore, under an obligation to take utmost care in keeping secrecy about the accounts of his customers. By keeping secrecy is meant that the account books of the bank will not be thrown open to the public or Government officials and the banker will take all necessary precautions to ensure that the state of affairs of a customer's account is not made known to others by any means. The banker is thus under an obligation not to disclose—deliberately or intentionally—any information regarding his customer's accounts to a third party and also to take all necessary precautions and care to ensure that no such information leaks out of the account books.

The nationalized banks in India are also required to fulfill this obligation. Section 13 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, specially requires them to "observe, except as otherwise required by law, the practices and usages customary amongst bankers and in particular not to divulge any information relating to the affairs of the constituents except in circumstances in which they are, in accordance with law or practices and usages or appropriate for them to divulge such information."

Thus, the general rule about the secrecy of customer's accounts may be dispensed with in the following circumstances:

I. When the law requires such disclosure to be made; and

II. When practices and usages amongst the bankers permit such disclosure.

A banker will be justified in disclosing information about his customer's account on reasonable and proper occasions only as stated below:

(a) Disclosure of Information required by Law. A banker is under statutory obligation to disclose the information relating to his customer's account when the law specially requires him to do so. The banker would, therefore, be justified in disclosing information to meet statutory requirements:

(i) *Under the Income- Tax Act*, 1961. According to Section 131, the income tax authorities possess the same powers as are vested in a Court under the Code of Civil Procedure, 1908, for enforcing the attendance of any person including any offer of banking company or any offer thereof, to furnish information in relation to such points or matters, as in the opinion of the income-tax authorities will be useful for or relevant to any proceedings under the Act. The income –tax authorities are thus authorized to call for necessary information from the banker for the purpose of assessment of the bank customers.

Section 285 of the Income- tax Act, 1961, requires the banks to furnish to the Income-tax Officers the names and addresses of all persons to whom they have paid interest exceeding ` 400 mentioning the actual amount of interest paid by them.

ii) *Under the Companies Act, 1956.* When the Central Government appoints an Inspector or to investigate the affairs of any joint stock company under Section 235 or 237 of the Companies Act, 1956, it shall be the duty of all officers and other employees and agents (including the bankers) of the company to-

(a) produce all books and papers of, or relating to, the company, which are in their custody or power, and

(b) otherwise to give the Inspector all assistance in connection with investigation which they are reasonably able to give (Section 240).

Thus the banker is under an obligation to disclose all information regarding the company but no of any other customer for the purpose of such investigation (Section 251).

(iii) *By order of the Court under the Banker's Books Evidence Act, 1891.* When the court orders the banker to disclose information relating to a customer's account, the banker is bound to do so. In order to avoid the inconvenience likely to be caused to the bankers from attending the Courts and producing their account books as evidence, the Banker's Books Evidence Act, 1891, provides that certified copies of the entries in the banker's book are to be treated as sufficient evidence and production of the books in the Courts cannot be forced upon the bankers. According to Section 4 of the Act, " a certified copy of any entry in a banker's book shall in all legal proceedings be received as prima facie evidence of the matters, transitions and accounts therein recorded in every case where, and to the same extent, as the original entry itself is now by law admissible, but not further or otherwise."

Thus if a banker is not a party to a suit, certified copy of the entries in his book will be sufficient evidence. The Court is also empowered to allow any party to legal proceedings to inspect or copy from the books of the banker for the purpose of such proceedings.

(iv) *Under the Reserve Bank of IndiaAct,1934.* The Reserve Bank of India collects credit information from the banking companies and also furnishes consolidated credit information from the banking company. Every banking company is under a statutory obligation under Section 45-B of the Reserve Bank. The Act, however, provides that the Credit information supplied by the Reserve Bank to the banking companies shall be kept confidential. After the enactment of the Reserve Bank of India (Amendment) Act, 1974, the banks are granted statutory protection to exchange freely credit
information mutually among themselves.

(v) Under the Banking Regulation Act, 1949. Under Section 26, every banking company is requires to submit a return annually of all such accounts in India which have not been operated upon for 10 years. Banks are required to give particulars of the deposits standing to the credit of each such account.

(vi) *Under the Gift Tax Act, 1958.* Section 36 of the Gifts Tax Act, 1958, confers on the Gift Tax authorities powers similar to those conferred on Income- Tax authorities under Section 131 of the Income Tax Act [discussed above (i).]

(vii) Disclosure to Police. Under Section 94 (3) of the Criminal Procedure Code, the banker is not exempted from producing the account books before the police. The police officers conducting an investigation may also inspect the banker's books for the purpose of such investigations (section 5. Banker's Books Evidence Act).

(viii) Under the Foreign Exchange Management Act, 1999, under section 10. Banking companies dealing in foreign exchange business are designated as 'authorized persons' in foreign

exchange. Section 36, 37 and 38 of this Act empowers the officer of the Directorate of Enforcement and the Reserve Bank to investigate any contravention under the Act..
(ix) Under the Industrial Development Bank of India Act, 1964. After the insertion of sub-section 1A in Section 29 of this Act in 1975, the Industrial Development Bank of India is authorized to collect from or furnish to the Central Government, the State Bank, any subsidiary bank, nationalized bank or other scheduled bank, State Co-operative Bank, State Financial Corporation credit information or other information as it may consider useful for the purpose of efficient discharge of its functions. The term 'credit information' shall have the same meaning as under the Reserve Bank of India Act,1934.
(b) **Disclosure permitted by the Banker's Practices and Usages.** The practices and usages customary amongst bankers permit the disclosure of certain information under the following circumstances:
(i) *With Express or Implied Consent of the Customer.* The banker will be will be justified in disclosing any information relating to his customer's account with the latter's consent. In fact the implied term of the contract between the banker and his customer is that the former enters into a qualified obligation with the latter to abstain from disclosing information as to his affairs without his consent (Tourniers vs. National Provincial and Union Bank of India). The consent of the customer may be expressed or implied. Express consent exists in case the customer directs the banker in writing to intimate the balance in his account or any other information to his agent, employee or consultant. The banker would be justified in furnishing to such person only the required information and no more. It is to be noted that the banker must be very careful in disclosing the required information to the customer or his authorized representative. For example, if an oral enquiry is made at the counter, the bank employee should not speak in louder voice so as to be heard by other customers. Similarly, the pass-book must be sent tot the customer through the messenger in a closed cover. A banker generally does not disclose such information to the customer over the telephone unless he can recognize the voice of his customer; otherwise he bears the risk inherent in such disclosure.
In certain circumstances, the implied consent of the customer permits the banker to disclose necessary information. For example, if the banker sanctions a loan to a customer on the guarantee of a third person and the latter asks the banker certain questions relating to the customer's account. The banker is authorized to do so because by furnishing the name of the guarantor, the customer is presumed to have given his implied consent for such disclosure. The banker should give the relevant information correctly and in good faith.
Similarly, if the customer furnishes the name of the banker to a third party for the purpose of a trade reference, not only an express consent of the customer exists for the discloser of relevant information but the banker is directed to do so, the non – compliance of which will adversely affect the reputation of the customer.
Implied consent should not be taken for granted in all cases even where the customer and the enquirer happen to be very closely related. For example, the banker should not disclose the state of a lady's account to her husband without the express consent of the customer.
(ii) The banker may disclose the state of his customer's account in order to legally protect his own interest. For example, if the banker has to recover the dues from the customer or the guarantor, disclosure of necessary facts to the guarantor or the solicitor becomes necessary and is quite justified.

(iii) *Banker's Reference.* Banker follows the practice of making necessary enquires about the customers, their sureties or the acceptors of the bills from other bankers. This is an established practice amongst the bankers and is justified on the ground that an implied consent of the customer is presumed to exist. By custom and practice necessary information or opinion about the customer is furnished by the banker confidentially. However, the banker should be very careful in replying to such enquiries.

Precautions to be taken by the banker. The banker should observe the following precautions while giving replies about the status and financial standing of a customer:

(i) The banker should disclose his opinion based on the exact position of the customer as is evident from his account. He should not take into account any rumour about his customer's creditworthiness. He is also not expected to make further enquiries in order to furnish the information. The basis of his opinion should be the record of the customer's dealings with banker.

(ii) He should give a general statement of the customer's account or his financial position without disclosing the actual figures. In expressing his general opinion he should be very cautious—he should neither speak too low about the customer nor too high. In the former case he injures the reputation of the customer ; in the latter, he might mislead the enquirer. In case unsatisfactory opinion is to be given, the banker should give his opinion in general terms so that it does not amount to a derogatory remark. It should give a caution to the enquirer who should derive his own conclusions by inference and make further enquiries, if he feels the necessity.

(iii) He should furnish the required information honestly without bias or prejudice and should not misrepresent a fact deliberately. In such cases he incurs liability not only to his own customer but also to the enquirer.

(c) Duty to the public to disclose : Banker may justifiably disclose any information relating to his customer's account when it is his duty to the public to disclose such information. In practice this qualification has remained vague and placed the banks in difficult situations. The Banking Commission, therefore, recommended a statutory provision clarifying the circumstances when banks should disclose in public interest information specific cases cited below:

(i) when a bank asked for information by a government official concerning the commission of a crime and the bank has reasonable cause to believe that a crime has been committed and that the information in the bank's possession may lead to the apprehension of the culprit,

(ii) where the bank considers that the customer's is involved in activities prejudicial to the interests of the country.

(iii) where the bank's books reveal that the customer is contravening the provisions of any law, and

(iv)where sizable funds are received from foreign countries by a constituent.

Risks of Unwarranted and Unjustifiable Disclosure. The obligation of the banker to keep secrecy of his customer's accounts – except in circumstances noted above – continue even after the account is closed. If a banker discloses information unjustifiably, he shall be liable to his customer and the third party as follows:

(a) *Liabilities to the customer.* The customer may sue the banker for the damages suffered by him as a result of such disclosure. Substantial amount may be claimed if the customer has suffered material damages. Such damages may be suffered as a result of unjustifiable disclosure

of any information or extremely unfavourable opinion about the customer being expressed by the banker.
(b) *Liabilities to third parties.* The banker is responsible to the third parties also to whom such information is given, if –
(i) the banker furnishes such information with the knowledge that it is false, and
(ii) Such party relies on the information and suffers losses.
Such third party may require the banker to compensate him for the losses suffered by him for relying on such information. But the banker shall be liable only if it is proved that it furnished the wrong or exaggerated information deliberately and intentionally. Thus he will be liable to the third party on the charge of fraud but not for innocent misrepresentation. Mere negligence on his part will not make him liable to a third party.
The general principles in this regard are as follows:
(1) A banker answering a reference from another banker on behalf of the latter's constituent owes a duty of honesty to the said constituent.
(2) If a banker gives a reference in the form of a brief expression of opinion in regard to creditworthiness, it does not accept and there is not expected of it any higher duty than that of giving an honest answer.
(3) If the banker stipulates in its reply that it is without responsibility, it cannot be held liable for negligence in respect of the reference.

Though the Pass Book contains true and authenticated record of the customer's account with the banker, no unanimous view prevails regarding the validity of the entries in the Pass Book. The banker may incur errors in recording entries in the Pass Book. The question, therefore, arises whether the Pass Book constitutes a conclusive proof of the accuracy of the entries made therein. According to Sir John Paget, "The proper function which the Pass Book ought to fulfill is to constitute a conclusive and unquestionable record of transactions between the banker and the customer and it should be recognized as such. After full opportunity of examination on the part of the customer all entries, at least to his debt, ought to be subsequently final and not liable to be subsequently reopened at any rate to the detriment of the banker".
In fact this view point rests on the presumption that the customer is under an obligation to verify the entries made in the Pass Book periodically and if detects any mistake, he ought to bring it to the notice of the banker within a reasonable period. If he does not do so and remains silent after the receipt of the Pass Book, customer's concurrence with the correctness of the entries is taken for granted. In some of the legal judgements, especially in Morgan vs. United States Mortgage and Trust Co. and Devaynes vs. Noble (1816) it was held that **negligence or omission on the part of the customer to** examine the correctness of the entries in the Pass Book is a fault on his part and thus renders as an evidence of settled and accepted account. The implied obligations on the customer to examine the Pass Book have not been supported in many other judicial decisions in England and India. For reference, we may cite the cases of Keptigalla Rubber Estate Co. vs. National Bank of India (1909) and Chatterton vs. London and Country Bank. In the absence of such obligation on the customer, the entries in the Pass Book cannot be treated as a conclusive proof of their accuracy and as settled account,. The customer is competent to point out the mistakes or omissions in the Pass Book at any time he happens to know about them.

Thus the entries in the Pass Book do not form the conclusive evidence of their correctness accuracy. The entries erroneously made or wrongly omitted may be either advantageous to the customer or the banker. Both the parties may, therefore, indicate the mistakes or omissions therein and get them rectified. The legal position in this regard is as follows:

Effect of Entries to the Advantage of the Customer

The account of a customer may sometimes wrongly show a credit balance, which is larger than the correct balance because of the duplication of credit entries or incorrectly entering higher amounts for such entries or due to omission of any debit entry. The legal position of the banker and his customer shall be as follows:

(i) The Pass Book is written by the banker and hence the entries therein may form an evidence against the banker. The customer is rightly entitled to believe them as correct and to act on the basis of such entries.

If the Pass Book shows a higher balance and the customer withdraws such balance treating it as his own and subsequently spends it away. the banker shall not be entitled to recover such amount wrongly paid to the customer. But the customer shall have to prove that (a) he acted in such manner relying on the correctness of the balance shown in the Pass Book and had no knowledge of the mistakes therein, and

(b) he altered his position by spending the same,. This benefit has been to the customer in various judgements because of the presumption that normally a person spends what he presumes to belong to him and if the banker permits him to withdraw excess money on the above presumption, it would be great prejudice to him, if he is called to pay them back.**(** Skyring vs. Greenwood (1825) and Holt vs. Markham (1923)

(ii) There are some exceptions to the above mentioned principle of estoppel. If the customer regularly maintains his account books and the bank regularly sends him the Pass Book (or statement in lieu of the Pass Book) the customer cannot act on the basis of the above presumption. Though it is not obligatory for him to check the Pass Book (or the statements), but in such circumstances, it is difficult to establish that he was ignorant about the mistakes in the Pass Book, because he regularly maintained the account books.

In such circumstances, a constructive notice of the mistake is supposed to have been given to him. The decision of the Madras High Court in Oakley Bowden and Co. vs. The Indian Bank Ltd. (A.I.R., 1964, Madras 202) says that "generally speaking, a bank owes a duty to its customer to maintain proper and accurate accounts of credits and debits. If a bank makes wrong credit entries without knowing the fact at the time the entries were made and intimates to its customers the credit entries and the customer acting upon the intimation of credit
entries, alters his position to his prejudice, the bank, therefore, will be stopped from contending that the credit entries were wrongly made and that the amounts covered by them should be refunded to it by the customer. Such an intimation by the bank is obviously a representation made to the customer, which the customer is at liberty, in fact, entitled, to act upon. Once it is acted upon by the customer bonafide, of course, it will then be too late for the
bank to realize from the credit entries they made mistakenly and seek to have recompensed by means of adjustment in the accounts or recovery of the amounts from the customer." The Court observed that if the Company had even cursorily scrutinized the periodic statements received by it from its two customers, it would have detected that two of the credit entries were in fact only duplicate entries. The Court held that the Company was negligent in

scrutinizing the accounts and that it had constructive notice of the duplicate entries and, therefore, it could not raise the plea of estoppel against the bank. It was held that the bank could recover the amounts in question.
In S. Kotrabasappa vs. Indian Bank (1990) 69 Company Case 683, the Karnataka High Court held that the customer who has taken unfair advantage of a mistaken credit made by the bank is bound to return or repay the amount according to Section 72 of the Indian Contract Act which states that "A person to whom money has been paid or anything delivered by mistake or under coercion, must repay or return it."

Effect of the Customer Signing Confirmation Slips

The Pass Book itself is not a conclusive proof of a settled account. Banks nowadays periodically issue to the customers confirmation slips, which gave the balance in the account as on a given date. By putting his signature on the confirmation slip, the customer accepts and confirms such balance. The legal effect of a customer's signing the confirmation slip was considered by the Kerala High Court in Essa Ismail vs. Indian Bank Ltd. (1963).
The Court observed that "unless there is evidence to show that the practice or the custom indicated a stated or settled account, the customer is not precluded from questioning the debit entries in a Pass Book but, whenconfirmation slips are sent and signed by the customer, he will be bound by the debits made." In this case, the confirmation slips were signed by the customer or his authorized agent. Hence the same were binding on him and his heirs and could not be challenged by them**.**
(iii) The banker is entitled to point out the customer any mistake or omission and to rectify it as soon as he knows about it. On receipt of such information the customer is not entitled to withdraw the excess amount wrongly credited to his account. But the banker should not dishonour the cheques drawn and issued by the customer before the notice of such wrong entry is served on him. If he does, he will be liable for the consequences of their
wrongful dishonour.

Effect of Wrong Entries in Favour of the Banker

When a credit entry has been totally omitted or its figure has been wrongly stated or any debit entry has been erroneously made in the account of the customer. Such entries are favourable to the banker and against the customer. The customer is entitled to get the mistake rectified as soon as he happens to detect it. This right of he customer does not lapse even if he returns the Pass Book without raising objection regarding any entry or he remains silent after the receipt of the Pass Book because, as already noted, the customer is not bound to examine the Pass Book periodically and regularly. He is entitled to recover the amount wrongly debited to, or
omitted to be credited to his account. The right of the customer to get the mistake rectified is, however, subject to one limitation. If the customer comes to know about the forgery in the cheque and he does not inform the bank, it will constitute negligence on his part. The customer will, therefore, not be entitled to recover the amount paid bythe banker on the forged cheque.
The most important point to note is that the negligence on the part of the customer should have been actually proved. In Canara Bank vs. Canara Sales Corporation and Others (AIR 1987 SC 1603) the Supreme Court held that after reasonable opportunity was given to the customer to examine the Bank's statements; its debit entries should be deemed to be final and should not be open for reconstruction to the detriment of the Bank. The Supreme Court rejected the appeal and held that the bank can escape liability only if it can establish knowledge to the

customer of the forgery in the cheques. Inaction for continuously long period cannot by itself afford a satisfactory ground for the bank to escape the liability. The Court further held that there was no duty for a customer to inform the Bank of fraud committed on him of which he was unaware. Nor can inaction for a reasonably long time in not discovering fraud or irregularity be made a defense to defeat a customer in an action for loss.
It is pertinent to note in this connection that the current accounts rules of the banks usually lay such obligation on the customer. For example,
“On a Pass Book or Statement of Account being received by a customer, the entries should be carefully examined and any error or omission should immediately be brought to the notice of the bank; otherwise, the return of the Pass Book or rendering of the Statement of Account to the customer will be treated as settlement of the account and acknowledgement of its correctness to date. The Bank will not be responsible for any loss arising from the neglect of these precautions.” (Bank of Baroda Current Account Rule) Similarly, the State Bank of India requires that—
“The entries should be carefully examined by the constituent, and, if any errors or omissions are discovered,the attention of the Bank must be drawn to them immediately. The Bank will not be responsible for any lossarising from neglect of this precaution.”
It is thus apparent that the current account rules, which form the basis of agreement between the banker and thecustomer, impose a duty on the customer to carefully examine the entries. If he is negligent in performing thisduty and thereby some loss is caused, the banker shall not be liable for the same.

Effect of False Entry in the Pass Book

The liability of a banker to his customer in case his employee commits an act of embezzlement and makes falseentries in the Pass Book was considered by the Supreme Court in State Bank of India vs. Shyama Devi (A.I.R.1978 S.C. 1263) . The Supreme Court laid down the legal principle which governs liability of an employer for theloss caused to a customer through the misdemeanor or negligence of an employee as follows: “The employer is not liable for the act of the servant if the cause of the loss or damage arose without his actual fault or privity or without the fault or neglect of his agent or servant in the course of his employment.

Precautions to be taken by the Banker and the Customer

1. The Pass Book must be sent by the customer to the bank periodically and regularly for recording thenecessary entries, so that mistakes, if any, may be detected by the customer soon thereafter. ReserveBank has advised the banks to issue a simple receipt to the tenderer of savings bank Pass Book if it isretained by the Bank for updating.
2. The Pass Book must be initialed by the accountant or other responsible officer of the Bank, who mustascertain the accuracy of the balance on the date of recording the entries, otherwise the customer will beentitled to act upon the same, if it is wrongly stated.
3. The customer must tally the entries with his own record—either the account books or he counterfoils ofpay-in-slips and cheques, etc. If any accuracy is found, the customer must inform the bank immediatelyto get the mistake rectified.
4. While sending the Pass Book to the customer, the banker should take steps to ensure the secrecy of itscontents. The Pass Book must be sent in a closed cover.

Garnishee Order

The obligation of a banker to honour his customer's cheques is extinguished on receipt of an order of the Court,known as the Garnishee order, issued under Order 21, Rule 46 of the code of Civil Procedure, 1908. If a debtorfails to pay the debt owed by to his creditor, the latter may apply to the Court for the issue of a Garnishee Order onthe banker of his debtor. Such order attaches the debts not secured by a negotiable instrument, by prohibiting the
creditor the creditor from recovering the debt and the debtor from the making payment thereof. The account ofthe customer with the banker, thus, becomes suspended and the banker is under an obligation not to make anypayment from the account concerned after the receipt of the Garnishee Order. The creditor at whose request theorder is issued is called the judgement- creditor, the debtor whose money is frozen is called judgement- debtor
and the banker who is the debtor of the judgement debtor is called the Garnishee.
The Garnishee Order is issued in two parts. First, the Court directs the banker to stop payment out of the account ofthe judgement- debtor. Such order, called Order Nisi, also seeks explanation from the banker as to why the funds inthe said account should not be utilized for the judgement- creditor's claim. The banker is prohibited from paying theamount due to his customer on the date of receipt of the Order Nisi. He should, therefore, immediately inform the customer so that dishonour of any cheque issued by him may be avoided. After the banker files his explanation, ifany, the Court may issue the financial order, called Order Absolute where the entire balance in the account or aspecified amount is attached to be handed over to the judgement- creditor. On receipt of such an order to the bankeris bound to pay the garnished funds to the judgement- creditor. Thereafter, the banker liabilities towards his customer
are discharged to that extent. The suspended account may be revived after payment has been made to the judgementcreditoras per the directions of the Court. The following points are to be noted in this connection:
II. The amount attached by the order. A garnishee order may attach either the amount of the judgement debtorwith the banker irrespective of the amount which the judgement- debtor owes to the creditor or a specifiedamount only which is sufficient to meet the creditor' claim from the judgement-debtor. In the first case, the entirein the account of the customer in the bank is garnished or attached and if banker pays any amount out of thesame which is in excess of the amount of the debt of the creditor plus cost of the legal proceedings, he will render
himself liable for such payment. For example, the entire to the credit of X, the principal debtor, ` 10,000 isattached by the Court while the debt owed by him to his creditor Y is only ` 6,000. If the banker honours thecheque of the customer X to the extent of ` 5,000 and thus reducing the balance to ` 5,000 he will be liable fordefying the order of the Court. On the other hand, if he dishonours all cheques, subsequent to the receipt of theGarnishee Order, he will not be liable to the customer for dishonouring his cheques.It is to be noted that the Garnishee Order does not apply to the amount of the cheque marked by a bank as a goodfor payment because the banker undertakes upon himself the liability to pay the amount of the cheque. On the
other hand, if the judgement debtor gives to the bank a notice to withdraw, it does not amount withdrawal, butmerely his intention to withdraw. The Garnishee Order will be applicable to such funds. In the second case, onlythe amount specified in the order is attached and the amount is excess of that may be paid to the customer by thebanker.
For example, X is customer of SBI and his current account shows a credit balance of ` 10,000. He is indebted toY for ` 5,000. the latter applies to the Court for the issue of a Garnishee Order

specifies the amount (` 5,000)which is being attached, the banker will be justified in making payment after this amount, i.e., the balance in thecustomer's account should not be reduced below ` 5,000. Usually in such cases, the attached amount is transferredto a suspense account and the account of the customer is permitted to be operated upon with the remaining balance.

III. The order of the Court restrains the banker from paying the debts due or accruing due. The word 'accruingdue' mean the debts which are not payable but for the payment of which an obligation exists. If the account isoverdrawn, the banker owes no money to the customer and hence the Court Order ceases to be effective. A bankis not a garnishee with respect to the unutilized portion of the overdraft or cash credit facility sanctioned to itscustomer and such utilized portion of cash credit or overdraft facility cannot be said to be an amount due from the bank of its customer. The above decision was given by the Karnataka High Court in Canara Bank vs. Regional provident Fund Commissioner. In his case the Regional Provident Fund Commissioner wanted to recover thearrears of provident fund contribution from the defaulters' bankers out of the utilized portion of the cash creditfacility. Rejecting this claim, the High Court held that the bank cannot be termed as a Garnishee of such unutilized portion of cash credit, as the banker's position is that of creditor. For example, PNB allows it as customer tooverdraw to the extent of ` 5,000. The customer has actually drawn (` 3,000) cannot be attached by a GarnisheeOrder as this is not a debt due from the banker. It merely indicates the extent to which the customer may be thedebtor of the bank.

The banker, of course, has the right to set off any debt owed by the customer before the amount to which theGarnishee Order applies is determined. But it is essential that debt due from the customer is actual and notmerely contingent. For example, if there is an unsecured loan account in the name of the judgement-debtor witha balance of ` 5,000 at the time of receipt of Garnishee Order, such account can be set off against the creditbalance in the other account. But if the debt due from the judgement- debtor is not actual, i.e., has not actually become due, but is merely contingent, such set off is not permissible. For example, if A, the judgement- debtor,has discounted a bill of exchange with the bank, there is contingent liability of A towards the bank, if the acceptordoes not honour the bill on the due date. Similarly, if A has guaranteed a loan taken from the bank by B, his liability as surety does not arise until and unless B actually makes default in repaying the amount of the loan.

The banker is also entitled to combine two accounts in the name of the customer in the same right. If one account shows a debit balance and the other a credit one, net balance is arrived at by deducting the former from the latter.

IV. The Garnishee Order attachés the balance standing to the credit of the principal debtor at the time the order is served on the banker. The following points are to be noted in this connection:

(a) The Garnishee Order does not apply to: (1) the amounts of cheques, drafts, bills, etc.., sent for collection by the customer, which remain uncleared at the time of the receipt of the order, (2) the sale proceeds of the customer's securities, e.g., stocks and shares in the process of sale, which have not been received by the banker. In such cases, the banker acts as the agent for the customer for the collection of the cheques or for the sale of the securities and the amounts in respect of the same are not debts due by the banker to the customer, until they are actually received by the banker and credited to the customer's account. But if the amount of such

uncleared cheque, etc., is credited to the customer's account, the position of the banker changes and the garnishee order is applicable to the amount of such uncleared cheques. Similarly, if one branch of a bank sends its customer's cheque for realization to its another branch and the latter collects the same from the paying banker before the receipt of the Garnishee Order by the first branch, the amount so realized shall also be subject to Garnishee Order, even though the required advice about realization of cheque is received after the receipt of the Garnishee Order. Giving this judgement in Gerald C.S. Lobo vs. Canara Bank (1997) 71 Comp. Cases 290, the Karnataka high Court held that the branch which collects money on behalf of another branch is to be treated as agent of the latter and consequently the moment a cheque sent for collection by the other branch has been realized by the former, the realization must be treated as having accrued to the principal branch.

(b) The Garnishee Order cannot attach the amounts deposited into the customer's account after the Garnishee Order has been served on the banker. A Garnishee Order applies to the current balance at the time the order is served, it has no prospective operation. Bankers usually open a new account on the name of customer for such purpose.

(c) The Garnishee Order is not effective in the payments already made by the banker before the order is served upon him. But if a cheque is presented to the banker for payment and its actual payment has not yet been made by the banker and in the meanwhile a Garnishee Order is served upon him, the latter must stop payment of the said cheque, even if it is passed for payment for payment. Similarly, if a customer asks the banker to transfer an amount from his account and the banker has already made necessary entries of such transfer in his books, but before the intimation could be sent to the other account-holder, a Garnishee Order is received by the banker, it shall be applicable to the amount so transferred by mere book entries, because such transfer has no effect without proper communication to the person concerned.

(d) In case of cheques presented to the paying banker through the clearing house, the effectiveness of the Garnishee Order depends upon the fact whether time for returning the dishonoured cheques to the collecting banker has expired or not. Every drawee bank is given specified time within which it has to return the unpaid cheques, if any, to the collecting bank. If such time has not expired and in the meanwhile the bank receives a Garnishee Order, it may return the cheque dishonoured. But if the order is received after such time over, the payment is deemed to have been made by the paying banker and the order shall not be applicable to such amount.

(e) The Garnishee Order is not applicable to:

(i) Money held abroad by the judgement- debtor ; and

(ii) Securities held in the safe custody of the banker,

(f) The Garnishee Order may be served on the Head Office of the bank concerned and it will be treated as sufficient notice to all of its branches. However, the Head Office is given reasonable time to intimate all concerned branches. If the branch office makes payment out of the customer's account before the receipt of such intimation, the banker will not be held responsible for such payment.

Application of the Garnishee Order to Various Types of Account

(a) Joint Accounts :

A joint account is opened in the names of two **or** more persons. *If only one of them is a judgement –debtor, the joint account cannot be attached.* But, if both or all the joint account-

holders are joint judgement- debtors in any legal proceedings, the joint account can be attached. For example, if A owes a debt of ` 1,000 to B in his personal capacity, the latter cannot pray for the attachment of a joint account in the names of A and C. But if A and C are jointly responsible for the debt, their joint account may be attached. But the reverse is possible, i.e., in the case of a debt jointly taken by two or more joint judgement-holders, their individuals accounts with the banks may be attached because each one of them is jointly and severally liable for the loans jointly taken by them.

(b) Partnership Account:

In case of debt taken by a partnership firm, the personal accounts of the partners can also be attached in addition to the account in the name of the firm because the liability of partners is both joint and several. But the reverse is not possible. If a partner is a judgement-debtor, only his individual account may be attached and not that of the firm or those of other partners.

(c) Trust Accounts:

A trustee hold the funds or property of some else for the benefit of the beneficiary. An account opened in the personal name of the Trustee, in his capacity as such, cannot be utilized for paying his personal liabilities. The banker should, therefore, inform the court that the account is a Trust account and in the meanwhile stop payments from the account and instruct the Trustee.

Rights of the Attaching Creditor

When the garnishee deposits the attached amount in the Court, the attaching creditor (or judgement- creditor) becomes a secured creditor. In *Rikhabchand Mohanlal Surana vs. The Sholapur Spinning and Weaving Co. Ltd*.

(76 Bombay Law Reporter 748) the High Court held that –

"While the attachment is only by a prohibitory order then the attaching creditor has no rights in the property attached, but once the property or moneys come into the possession of the Court for the attaching creditor.

The Court does not hold the money for the debtor more so when the garnishee obtains complete discharge by making payment in Court."

Attachment Order Issued by Income- Tax Authorities

The credit balance in the account of a customer of a banker may be attached by the Income-Tax authorities, if the former defaults in making payment of the tax due from him. Section 226 (3) of the Indian Income- Tax Act, 1961, authorizes the Income- Tax Act, 1961, authorities the Income Tax Officer "to require by notice in writing any person from whom money is due or may become due the assessee or any person who holds or may subsequently hold money for a or account of the assessee, to pay to the Income-Tax Officer an amount equal to or less than the amount of such arrears." Thus, the order of the Income-Tax Officer may attach (i) any debts due and payable, (ii) debts due but not payable on the date of the receipt of the notice, and (iii) any amount received subsequently. Balances lying in a joint account may also be attached even though the notice is issued on a single account. The share of the joint holders in such account shall be presumed, until contrary in proved, to be equal. Thus the amount to the credit of a joint account may be attached pro rata irrespective of the fact that the joint account is payable to 'either or survivor' or otherwise.

This section makes it obligatory for every person to whom such notice is issued to comply with such notice. In case of a banking company, it shall not be necessary for any pass book or deposit

receipt or any other document to be produced for the purpose of any entry, endorsement, etc., before payment is made. After making payment as required under this section, the banker shall be fully discharged from his liability to the assessee to the extent of the discharged from his liability to the assessee to the extent of the amount so paid. But if he fails to make payment, he shall be deemed to be an assessee in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realization of such amount. The banker should, therefore, comply with such order. His obligation towards his customer is reduced to that extent.

Right of Appropriation

In case of his usual business, a banker receives payments from his customer. If the latter has more than one account or has taken more than one loan from the banker, the question of the appropriation of the money subsequently deposited by him naturally arises. Section 59 to 61 of the Indian Contract Act, 1872 contains provisions regarding the right of appropriation of payments in such cases. According to Section 59 such right of appropriation is vested in the debtor, who makes a payment to his creditor to whom he owes several debts. He can appropriate the payment by (i). an express intimation or (ii) under circumstances implying that the payment is to be applied to the discharge of some particular debt. If the creditor accepts such payment, it must be applied accordingly. For example, A owes B several debts, including ` 1,000 upon a promissory note which falls due on 1st December, 1986. He owes B no other debt of that amount. On 1-12-1986 A pays B ` 1,000. The payment is to be applied to the discharge of the promissory note.

If the debtor does not intimate or there is no other circumstances indicating to which debt the payment is to be applied, the right of appropriation is vested in the creditor. He may apply it as his discretion to any lawful debt actually due and payable to him from the debtor (Section 60) Further, where neither party makes any appropriation, the payment shall be applied in discharge of each proportionately (Section 61).

In M/s. Kharavela Industries Pvt. Ltd. v. Orissa State Financial Corporation and Others [AIR 1985 Orissa 153 (A)], the question arose whether the payment made by the debtor was to be adjusted first towards the principal or interest in the absence of any stipulation regarding appropriation of payments in the loan agreement. The Cout held that in case of a debt due with interest, any payment made by the debtor is in the first instance to be applied towards satisfaction of interest and thereafter toward the principal unless there is an agreement to the contrary.

In case a customer has a single account and he deposits and withdraws money from it frequently, the order in which the credit entry will set off the debit entry is the chronological order, as decided in the famous Clayton' Case. Thus the first item on the debit side will be the item to be discharged or reduced by a subsequent item on the credit side. The credit entries in the account adjust or set-off the debit entries in the chronological order. The rule derived from the Clayton's case is of great practical significance to the bankers. In a case of death, retirement or insolvency of a partner of a firm, the then existing debt due from the firm is adjusted or set-off by subsequent credit made in the account. The banker thus loses his right to claim such debt from the assets of the deceases, retired or insolvent partner and may ultimately suffer the loss if the debt cannot be recovered from the remaining partners. Therefore, to avoid the operation

of the rule given in the Clayton's case the banker closes the old account of the firm and opens a new one in the name of the reconstituted firm. Thus the liability of the deceased, retired or insolvent partner, as the case may be, at the time of his death, retirement or insolvency is determine and he may be held liable for the same. Subsequent deposits made by surviving/ solvent partners will not be applicable to discharge the same.

Right of General Lien

One of the important rights enjoyed by a banker is the right of general lien. Lien means the right of the creditor to retain the goods and securities owned by the debtor until the debt due from him is repaid. It confers upon the creditor the right to retain the security of the debtor and not the right to sell it . Such right can be exercised by the creditor in respect of goods and securities entrusted to him by the debtor with the intention to be retained by him as security for a debt due by him (debtor).

Lien may be either (i) a general lien or, (ii) a particular lien. A particular lien can be exercised by a craftsman or a person who has spent his time, labour and money on the goods retained. In such cases goods are retained for a particular debt only. For example, a tailor has the right to retain the clothes made by him for his customer until his tailoring charges area paid by the customer. So is the case with public carriers and the repair shops.

A general lien, on the other hand, is applicable in respect of all amounts due from the debtor to the creditor. Section 171 of the Indian Contract Act, 1872, confers the right of general lien on the bankers as follows:

"Bankers… may, in the absence of a contract to the contrary, retain as a security for a general balance ofaccount, any goods bailed to them."

Special Features of a Banker's Right of General Lien

(i) The banker possesses the right of general lien on all goods and securities entrusted to him in his capacity asa banker and in the absence of a contract inconsistent with the right of lien. Thus, he cannot exercise his right ofgeneral lien if –

(a) the goods and securities have been entrusted to the banker as a trustee or an agent of the customer; and

(b) a contract – express or implied – exists between the customer and the banker which is inconsistent withthe banker's right of general lien. In other words, if the goods or securities are entrusted for some specificpurpose, the banker cannot have a lien over them. These exceptional cases are discussed later on.

(ii) ***A banker's lien is tantamount to an implied pledge:*** As noted above the right of lien does not confer on thecreditor the right of sale but only the right to retain the goods till the loan is repaid. In case of pledge**8** the creditorenjoys the right of sale. A banker's right of lien is more than a general lien. It confers upon him the power to sellthe goods and securities in case of default by the customer. Such right of lien thus resembles a pledge and isusually called an ' implied pledge'. The banker thus enjoys the privileges of a pledge and can dispose of the securities after giving proper notice to the customer.

(iii) ***The right of lien is conferred upon the banker by the Indian Contract Act:*** No separate agreement orcontract is, therefore, necessary for this purpose. However, to be on the safe side, the banker takes a letter of lienfrom the customer mentioning that the goods are entrusted to the banker as security for a loan—existing orfuture—taken from the banker and that the latter can exercise his right of lien over them. The banker is alsoauthorized to sell the goods in case of

default on the part of the customer. The latter thus spells out the object ofentrusting the goods to the banker so that the same may not be denied by the customer later on.

(iv). ***The right of lien can be exercised on goods or other securities standing in the name of the borrower***and not jointly with others. For example, in case the securities are held in the joint names of two or more personsthe banker cannot exercise his right of general lien in respect of a debt due from a single person.

(v) ***The banker can exercise his right of lien on the securities remaining in his possession after the loan,***for which they are lodged, is repaid by the customer, if no contract to contrary exists. In such cases it is an impliedpresumption that the customer has re-offered the same securities as a cover for any other advance outstandingon that date or taken subsequently. The banker is also entitled to exercise the right of general lien in respect of acustomer's obligation as a surety and to retain the security offered by him for a loan obtained by him for hispersonal use and which has been repaid. In *Stephen Manager North Malabar Gramin Bank vs. ChandraMohan and State of Kerala,* the loan agreement authorized the bank to treat the ornaments not only as a security for thatloan transaction, but also for any other transaction or liability existing or to be incurred in future. As the liability ofthe surety is joint and several with that of the principal debtor, such liability also came within the ambit of theabove provision of the agreement.

Section 171 of the Contract Act entitles a banker to retain the goods bailed to him for any other debt due to him,i.e., any debt taken prior to the debt for which the goods were entrusted as security.But in a lien there should be a right of possession because, lien is a right of one man to retain that which is in hispossession belonging to another. Possession of the goods by the person claiming right of lien, is anterior to theexercise of that right and for which possession whether actual or conductive is a must. (S*yndicate Bank Vs.Davander Karkare (*A.I.R. 1994 Karnataka 1)

Exceptions to the Right of General Lien

As already noted the right of lien can be exercised by a banker on the commodities entrusted to him in hiscapacity as a banker and without any contract contrary to such right. Thus the right of lien cannot be exercised inthe following circumstances:

(a) ***Safe custody deposits****.* When a customer deposits his valuables – securities, ornaments, documents,etc. – with the banker for safe custody, he entrusts them to the banker s a bailee or trustee with thepurpose to ensure their safety from theft, fire, etc. A contract inconsistent with the right of lien is presumedto exist. For example, if he directs the banker to collect the proceeds of a bill of exchange on its maturityand utilize the same for honouring a bill of exchange on his behalf, the amount so realized will not besubject to the right of general lien.

Similarly, if a customer hands over to the banker some shares with the instruction to sell them at or abovea certain price and the same are lying unsold with the banker, the latter cannot exercise his right of lien onthe same, because the shares have been entrusted for a specific purpose and hence a contract inconsistentwith the right of lien comes into existence.

But if no specific purpose is mentioned by the customer, the banker can have lien on bills or cheques sent for collection or dividend warrants, etc. If the security comes into the possession of the banker in theordinary course of business, he can exercise his right of general lien.

(c) *Right of General Lien becomes that of Particular Lien.* Banker's right of general lien is displaced bycircumstances which show an implied agreement inconsistent with the right of general lien. In Vijay Kumarv. M/s. Jullundur Body Builders, Delhi, and Others (A.I.R. 1981, Delhi

126), the Syndicate Bank furnished abank guarantee for ` 90,000 on behalf of its customer. The customer deposited with it as security two fixeddeposit receipts, duly discharged, with a covering letter stating that the said deposits would remain with thebank so long on any amount was due to the Bank from the customer. Bank made an entry on the reverseof Receipt as "Lien to BG 11/80." When the bank guarantee was discharged, the bank claimed its right of
general lien on the fixed deposit receipt, which was opposed on the ground that the entry on the reverse ofthe letter resulted in the right of a particular lien, i.e., only in respect of bank guarantee.

The Delhi High Court rejected the claim of the bank and held that the letter of the customer was on theusual printed form while" the words written by the officer of the bank on the reverse of the deposit receiptwere specific and explicit. They are the controlling words, which unambiguously tell us what was in theminds of the parties of the time. Thus the written word which prevail over the printed "word". The right ofthe banker was deemed that of particular lien rather than of general lien.

(d) *Securities left with the banker negligently.* The banker does not possess the right of lien on the documentsor valuables left in his possession by the customer by mistake or by negligence.

(e) *The banker cannot exercise his right of lien over the securities lodged with him for securing a loan, beforesuch loan is actually granted to him.*

(f) Securities held in Trust. The banker cannot exercise his right of general lien over the securities depositedby the customer as a trustee in respect of his personal loan. But if the banker is unaware of the fact thatthe negotiable securities do not belong to the customer, his right of general lien is not affected.

(g) Banker possesses right of set-off and not lien on money deposited. The banker's right of lien extendsover goods and securities handed over to the banker. Money deposited in the bank and the credit balancein the accounts does not fall in the category of goods and securities. The banker may, therefore, exercisehis right of set –off rather the right of lien in respect of the money deposited with him. The Madras HighCourt expressed this view clearly as follows:

The lien under Section 171 can be exercised only over the property of someone else and not own property. Thuswhen goods are deposited with or securities are placed in the custody of a bank, it would be correct to speak ofright of the bank over the securities or the goods as a lien because the ownership of the goods or securities wouldcontinue to remain in the customer. But when moneys are deposited in a bank as a fixed deposit, the ownershipof the moneys passes to the bank and the right of the bank over the money lodged with it would not be really lien
at all. It would be more correct speak of it as a right to set-off or adjustment." (Brahammaya vs. K.P. ThangaveluNadar, AIR (1956), Madras 570)

Right of set- off

The right of set-off is a statutory right which enables a debtor to take into account a debt owed to him by a creditor,before the latter could recover the debt due to him from the debtor. In other words, the mutual claims of debtorand creditor are adjusted together and only the remainder amount is payable by the debtor. A banker, like otherdebtors, possesses this right of set-off which enables him to combine two accounts in the name of the samecustomer and to adjust the debit balance in one account with the credit balance in the other. For example, A has

taken an overdraft from his banker to the extent of ` 5,000 and he has a credit balance of ` 2,000 in his savingsbank account, the banker can combine both of these accounts and claim the remainder amount of ` 3,000 only.
This right of set-off can be exercised by the banker if there is no agreement—express or implied—contrary to thisright and after a notice is served on the customer intimating the latter about the former's intention to exercise theright of set-off. To be on the safer side, the banker takes a letter of set-off from the customer authorizing thebanker to exercise the right of set-off without giving him any notice. The right of set-off can be exercised subjectto the fulfillment of the following conditions:
(i) *The accounts must be in the same name and in the same right.* The first and the most important conditionfor the application of the right of set-off is that the accounts with the banker must not only be in the same name but also in the same right. By the words '*the same right'* meant that the capacity of the accountholder in both or call the accounts must be the same, i.e., the funds available in one account are held by him in the same right or capacity in which a debit balance stands in another account. The underlying principle involved in this rule is that funds belonging to someone else, but standing in the same name of the account – holder, should not be made available to satisfy his personal debts. The following examples,
make this point clear:
(a) In case of a sole trader the account in his personal name and that in the firm's name are deemed to be in the same right and hence the right of set-off can be exercised in case either of the two accounts is having debit balance.
(b) In case the partners of a firm have their individual accounts as well as the account of the firm with the same bank, the latter cannot set-off the debt due from the firm against the personal accounts of the partners. But if the partners have specially undertaken to be jointly and severally liable for the firm's debt due to the banker, the latter can set-off such amount of debt against the credit balances in the personal accounts of the partners.
(c) An account in the name of a person in his capacity as a guardian for a minor is not be treated in the same right as his own account with the banker.
(d) The funds held in Trust account are deemed to be in different rights. If a customer opens a separate account with definite instructions as regards the purpose of such account, the latter should not be deemed to be in the same right. The case of Barclays Bank Ltd. v. Quistclose Investment Limited may be cited as an illustration. Rolls Rozer Ltd .borrowed an amount from Quistclose Investment Ltd. with the specific purpose of paying the dividend to the shareholders and deposited the same in a separate account 'Ordinary Dividend No. 4 Account with Barclays Bank Ltd. and the latter was also informed about the purpose of this deposit. The company went into liquidation before the intended dividend could be paid and the banker combined all the accounts of the company, including the above one. Quistclose Investment Ltd., the
creditors of the company, claimed the repayment of the balance in the above account which the bank refused. It was finally decided that by opening an account for the specific purpose of paying the dividend a trust arose in favour of the shareholders. If the latter could not get the funds, the benefit was to go to the Quistclose Investment Ltd. and to the bank. The banker was thus not entitled to set-off the debit balance in the company's account against the credit balance in the above account against the credit balance in the above account. The balance held

in the clients' account of an advocate is not deemed to be held in the same capacity in which the amount is held in his personal account.

(e) In case of a joint account, a debt due from one of the joint account- holders in his individual capacity cannot be set-off against an amount due to him by the bank in the joint account. But the position may appear to be different if the joint account is payable to ' former or survivor'. Such an account is deemed to be primarily payable to the former and only after his death to the survivor. Thus the former's debt can be set-off against the balance in the joint account.

(ii) *The right can be exercised in respect of debts due* and not in respect of future debts or contingent debts.

For example, a banker can set-off a credit balance in the account of customer towards the payment of a bill which is already due but not in respect of a bill which will mature in future. If a loan given to a customer is repayable on demand or at a future date, the debt becomes due only when the banker makes a demand or on the specified date and not earlier.

(iii) *The amount of debts must be certain.* It is essential that the amount of debts due from both the parties to each other must be certain. If liability of any one of them is not determined exactly, the right of setoff cannot be exercised. For example, if A stands as guarantor for a loan of ` 50,000 given by a bank to B, his liability as guarantor will arise only after B defaults in making payment. The banker cannot setoff the credit balance in his account till his liability as a guarantor is determined. For this purpose it is essential that the banker must first demand payment from his debtor. If the latter defaults in making payment of his payment of his debt, only then the liability of the guarantor arises and the banker can exercise his right of set-off against the credit balance in the account of the guarantor. The banker cannot exercise this right as and when he realizes that the amount of debt has becomes sticky, i.e., irrecoverable.

(iv) *The right may be exercised in the absence of an agreement to the contrary.* If there is agreement—express or implied—inconsistent with the right of set-off, the banker cannot exercise such right. If there is an express contract between the customer and the banker creating a lien on security, it would exclude operation of the statutory general lien under Section 171 of the Indian Contract Act, 1872. In Krishna Kishore Karv. Untitled Commercial Bank and Another (AIR 1982 Calcutta 62), the UCO Bank, on the request of its customer K.K. Kar, issued guarantee for ` 2 lakhs in favour of the suppliers of coal guaranteeing payment for coal supplied to him. The customer executed a counter- guarantee in favour of the Bank and also paid margin money ` 1.83 lakhs to the Bank. After fulfilling its obligations under the
guarantee, the Bank adjusted ` 76,527 due from the customer under different accounts against the margin money deposited by the customer in exercise of its lien (or alternatively the right of set-off). The High Court held that the bank was not entitled to appropriate or adjust its claims under Section 171 of the Contract Act in view of the existence of the counter- guarantee, which constituted a contract contrary to the right of general lien.

(v) *The Banker may exercise this right at his discretion.* For the purpose of exercising this right of all branches of a bank constitute one entity and the bank can combine two or more accounts in the name of the same customer at more than one branch. The customer, however, cannot compel or pursue the banker to exercise the right and to pay the credit balance at any other branch.

(vi) *The banker has right to exercise this right before the garnishee order is made effective.* In case a banker receives a garnishee order in respect of the funds belonging to his customer, he

has the right first to exercise his right of set-off and thereafter to surrender only the remainder amount to the judgementcreditor.

Right to charge Interest and Incidental Charges, etc.

As a creditor, a banker has the implied right to charge interest on the advances granted to the customer. Bankers usually follow the practice of debiting the customer's account periodically with the amount of interest due from the customer. The agreement between the banker and the customer may, on the other hand, stipulate that interest may be charged at compound rate also. In Konakolla Venkata Satyanarayana & Others vs. State Bank of India (AIR, 1975 A.P. 113) the agreement provided that "interest….. shall be calculated on the daily balance of such amount and shall be charged to such account on the last working day of each month." For several years the customer availed the overdraft facilities and periodical statements of accounts were being sent to the customer showing that interest was being charged and debited at compound rate and no objection was raised at any time.

The High Court, therefore, held that there was no doubt that the customer had agreed to the compound rate of interest being charged and debited to his account. The customer need not pat the amount of interest in cash.

After making a debit entry in the account of the customer, the amount of interest is also deemed as a debt due from the customer to the banker and interest accrues on the same in the next period. The same practice is followed in allowing interest on the savings accounts. Banks also charge incidental charges on the current accounts to meet the incidental expenses on such accounts.

Individuals

Accounts of individuals form a major chunk of the deposit accounts in the personal segment of most banks.

Individuals who are major and of sound mind can open a bank account.

(a) Minors:

In case of minor, a banker would open a joint account with the natural guardian. However to encourage the habit of savings, banks open minor accounts in the name of a minor and allows single operations by the minor himself/herself. Such accounts are opened subject to certain conditions like (i) the minor should be of some minimum age say 12 or 13 years or above (ii) should be literate (iii) No overdraft is allowed in such accounts (iv) Two minors cannot open a joint account. (v) The father is the natural guardian for opening a minor account, but RBI has authorized mother also to sign as a guardian (except in case of Muslim minors)

(b) Joint Account Holders:

A joint account is an account by two or more persons. At the time of opening the account all the persons should sign the account opening documents. Operating instructions may vary, depending upon the total number of account holders. In case of two persons it may be (i) jointly by both account holders (ii) either or survivor (iii) former or survivor In case no specific instructions is given, then the operations will be by all the account holder jointly, The instructions for operations in the account would come to an end in cases of insanity, insolvency, death of any of the joint holders and operations in the account will be stopped.

(c) Illiterate Persons

Illiterate persons who cannot sign are allowed to open only a savings account (without cheque facility) or fixed deposit account. They are generally not permitted to open a current account. The following additional requirements need to be met while opening accounts for such persons:
– The depositor’s thumb impression (in lieu of signature) is obtained on the account opening form in the presence of preferably two persons who are known to the bank and who have to certify that they know the depositor.
– The depositor’s photograph is affixed to the ledger account and also to the savings passbook for identification.
Withdrawals can be made from the account when the passbook is furnished, the thumb impression is verified and a proper identification of the account holder is obtained

Hindu Undivided Family (HUF)

HUF is a unique entity recognized under the Hindu customary law as comprising of a ‘Karta’ (senior-most male member of the joint family), his sons and grandsons or even great grandsons in a lineal descending order, who are ‘coparceners’ (who have an undivided share in the estate of the HUF). The right to manage the HUF and its business vests only in the Karta and he acts on behalf of all the coparceners such that his actions are binding on each of them to the extent of their shares in the HUF property. The Karta and other coparceners may possess self-acquired properties other than the HUF property but these cannot be clubbed together for the HUF dues.
HUF business is quite distinct from partnership business which is governed by Indian Partnership Act, 1932. In partnership, all partners are individually and collectively liable to outsiders for the dues of the partnership and all their individual assets, apart from the assets of the partnership, would be liable for attachment for partnership dues. Contrarily, in HUF business, the individual properties of the coparceners are spared from attachment for
HUF dues.
The following special requirements are to be fulfilled by the banks for opening and conducting HUF accounts:
– The account is opened in the name of the Karta or in the name of the HUF business.
– A declaration signed by Karta and all coparceners, affirms the composition of the HUF, its Karta and names and relationship of all the coparceners, including minor sons and their date of birth.
– The account is operated only by the Karta or the authorized coparceners.
– In determining the security of the family property for purposes of borrowing, the self-acquired properties of the coparceners are excluded.
– On the death of a coparcener, his share may be handed over to his wife, daughters and other female relatives as per the Hindu Succession Act, 1956.
The Hindu Succession Act, 1956 has been amended in 2005. The Amendment Act confers equal rights to daughters in the *Mitakshara Coparcenary property* . With this amendment the female coparcener can also act as Karta of the HUF. When any HUF property is to be mortgaged to the Bank as a security of loan, all the major coparceners (including female coparceners) will have to execute the documents

Firms

The concept of 'Firm' indicates either a sole proprietary firm or a partner- ship firm. A sole proprietary firm is wholly owned by a single person, whereas a partnership firm has two or more partners. The sole-proprietary firm's account can be opened in the owner's name or in the firm's name. A partnership is defined under section 4 of the Indian Partnership Act, 1932, as the relationship between persons who have agreed to share the profits of business
carried on by all or any of them acting for all. It can be created by an oral as well as written agreement among the partners. The Partner- ship Act does not provide for the compulsory registration of a firm. While an unregistered firm cannot sue others for any cause relating to the firm's business, it can be sued by the outsiders irrespective of its registration. In view of the features of a partnership firm, bankers have to ensure that the following requirements
are complied with while opening its account:

– The account is opened in the name of the firm and the account opening form is signed by all the partners of the firm.

– Partnership deed executed by all the partners (whether registered or not) is recorded in the bank's books, with suitable notes on ledger heading, along with relevant clauses that affect the operation of the account.

– Partnership letter signed by all the partners is obtained to ensure their several and joint liabilities. The letter governs the operation of the account and is to be adhered to accordingly.

The following precautions should be taken in the conduct of a partnership account:

– The account has to be signed 'for and on behalf of the firm' by all the authorized partners and not in an individual name.

– A cheque payable to the firm cannot be endorsed by a partner in his name and credited to his personal account.

– In case the firm is to furnish a guarantee to the bank, all the partners have to sign the document.

– If a partner (who has furnished his individual property as a security for the loan granted to the firm) dies, no further borrowings would be permitted in the account until an alternative for the deceased partner is arranged for, as the rule in Clayton's case operates.

Companies

A company is a legal entity, distinct from its shareholders or managers, as it can sue and be sued in its own name.

It is a perpetual entity until dissolved. Its operations are governed by the provisions of the Companies Act, 1956.

A company can be of three types:

– Private Limited company: Having 2 to 51 shareholders.

– Public company: Having 7 or more shareholders.

– Government company: Having at least 51per cent shareholdings of Government (Central or State).

The following requirements are to be met while opening an account in the name of a company:

– The account opening form meant for company accounts should be filled and specimen signatures of the authorized directors of the company should be obtained.

– Certified up-to-date copies of the Memorandum and Articles of Association should be obtained. The powers of the directors need to be perused and recorded to guard against '*ultra vires*' acts of the company and of the directors in future.

– Certificate of Incorporation (in original) should be perused and its copy retained on record.
– In the case of Public company, certificate of commencement of business should be obtained and a copy of the same should be recorded. A list of directors duly signed by the Chairman should also be obtained.
– Certified copy of the resolution of the Board of Directors of the company regarding the opening, execution of the documents and conduct of the account should be obtained and recorded.

Trusts

A trust is a relationship where a person (trustee) holds property for the benefit of another person (beneficiary) or some object in such a way that the real benefit of the property accrues to the beneficiary or serves the object of the trust. A trust is generally created by a trust deed and all concerned matters are governed by the Indian Trusts Act, 1882.

The trust deed is carefully examined and its relevant provisions, noted. A banker should exercise extreme care while conducting the trust accounts, to avoid committing breach of trust:
– A trustee cannot delegate his powers to other trustees, nor can all trustees by common consent delegate their powers to outsiders.
– The funds in the name of the trust cannot be used for crediting in the trustee's account, nor for liquidating the debts standing in the name of the trustee.
– The trustee cannot raise loan without the permission of the court, unless permitted by the trust deed.

Clubs

Account of a proprietary club can be opened like an individual account. However, clubs that are collectively owned by several members and are not registered under Societies Registration Act, 1860, or under any other Act, are treated like an unregistered firm. While opening and conducting the account of such clubs, the following requirements are to be met:
– Certified copy of the rules of the club is to be submitted.
– Resolution of the managing committee or general body, appointing the bank as their banker and specifying the mode of operation of the account has to be submitted,
– The person operating the club account should not credit the cheques drawn favouring the club, to his personal account.

Local Authorities

Municipal Corporation, Panchayat Boards are local authorities created by specific Acts of the state legislature.

Their constitution, functions, powers, etc. are governed by those Acts. Bankers should ensure that accounts ofsuch bodies are opened and conducted strictly as per the provisions of the relevant Act and regulations framedthere under. The precautions applicable for company or trust accounts are also applicable in the case of theseaccounts, in order to guard against *ultra vires* acts by the officers of the local authority operating the account.

Co-operative societies

Co-operative societies are required to open accounts only with these banks which are recognized for thispurpose (under the Co-operative Society Act). The following documents should be obtained while opening theiraccount:
– Certificate of registration of the society under the Co-operative Society Act.
– Certified copy of the bye-laws of the society.

– Resolution of the managing committee of the society prescribing the conditions for the conduct of theaccount.
– List of the members of the managing committee with the copy of the resolution electing them as thecommittee members.

Banker-customer relationship is a contractual relationship between two parties and it may be terminated by either party on voluntary basis or involuntarily by the process of law. These two modes of termination are described below.

1. Voluntary Termination: The customer has a right to close his demand deposit account because of change of residence or dissatisfaction with the service of the banker or for any other reason, and the banker is bound to comply with this request. The banker also may decide to close an account, due to an unsatisfactory conduct of the account or because it finds the customer undesirable for certain reasons.

However, a banker can close an account only after giving a reasonable notice to the customer. However, such cases of closure of an account at the instance of the banker are quite rare, since the cost ofsecuring and opening a new account is much higher than the cost of closing an account. If a customerdirects the banker in writing to close his account, the banker is bound to comply with such direction. Thelatter need not ask the reasons for the former's direction. The account must be closed with immediateeffect and the customer be required to return the unused cheques.

2. If the Bank desires to close the account: If an account remains un-operated for a very long period, thebanker may request the customer to withdraw the money. Such step is taken on the presumptions thatthe customer no longer needs the account. If the customer could not be traced after reasonable effort,the banker usually transfers the balance to an "Unclaimed Deposit Account", and the account is closed.

The balance is paid to the customers as and when he is traced.

The banker is also competent to terminate his relationship with the customer, if he finds that the latteris no more a desirable customer. The banker takes this extreme step in circumstances when thecustomer is guilty of conducting his account in an unsatisfactory manner, *i.e.* if the customer is convictedfor forging cheques or bills or if he issues cheques without sufficient funds or does not fulfil hiscommitment to pay back the loans or overdrafts, etc. The banker should take the following steps forclosing such an account.

(*a*) The banker should give to the customer due notice of his intention to close the account and request him to withdraw the balance standing to his credit. This notice should give sufficient time to thecustomer to make alternative arrangements. The banker should not, on his own, close the accountwithout such notice or transfer the same to any other branch.

(*b*) If the customer does not close the account on receipt of the aforesaid notice, the banker should giveanother notice intimating the exact date by which the account be closed otherwise the banker himselfwill close the account. During this notice period the banker can safely refuse to accept further creditsfrom the customer and can also refuse to issue fresh cheque book to him. Such steps will not makehim liable to the customer and will be in consonance with the intention of the notice to close accountby a specified date.

The banker should, however, not refuse to honour the cheques issued by the customer, so long as hisaccount has a credit balance that will suffice to pay the cheque. If the banker dishonours

any chequewithout sufficient reasons, he will be held liable to pay damages to his customer under Section 31 of theNegotiable Instruments Act, 1881. In case of default by the customer to close the account, the bankershould close the account and send the money by draft to the customer. He will not be liable for dishonouringcheques presented for payment subsequently.

3. Termination by Law: The relationship of a banker-customer can also be terminated by the process oflaw and by the occurrence of the following events:

(a) Death of customer: On receiving notice or information of the death of a customer, the bank stops alldebit transactions in the account. However, credits to the account can be permitted. The balance inthe account is given to the legal representative of the deceased after obtaining the letters ofadministration, or succession certificate, or indemnity bond as per the prescribed procedure, andonly then, the account is closed.

(b) Bankruptcy of customer: An individual customer may be declared bankrupt, or a company may bewound up under the provisions of law. In such an event, no drawings would be permitted in theaccount of the individual/company. The balance is given to the Receiver or Liquidator or the OfficialAssignee and the account is closed thereafter.

(c) Garnishee Order: After receiving a garnishee order from a court or attachment order from incometax authority, the account can be closed as one of the options after taking the required steps.

(d) Insanity of the customer: A lunatic/person of unsound mind is not competent to contract underSection 11 of the Indian Contract Act, 1872. Since banker-customer relationship is contractual, thebank will not honour cheques and can close the account after receiving notice about the insanity ofthe customer and receiving a confirmation about it through medical reports.

Deposits - General

Deposits of banks are classified into three categories:

(1) Demand deposits are repayable on customers’ demand. These comprise of:

– Current account deposits
– Savings bank deposits
– Call deposits

(2) Term deposits are repayable on maturity dates as agreed between the customers and the banker. These
comprise of:

– Fixed deposits
– Recurring deposits

(3) Hybrid deposits or flexi deposits combine the features of demand and term deposits. These depositshave been lately introduced in by some banks to better meet customers’ financial needs and convenienceand are known by different names in different banks.

The demand and time deposits of a bank constitute its demand and time liabilities that the bank reports everyweek (on every Friday) to the RBI.

Demand Deposits

(a) Current account:

A current account is a running and active account that may be operated upon any number of times during a workingday. There is no restriction on the number and the amount of

withdrawals from a current account. Current accountscan be opened by individuals, business entities (firms, company), institutions, Government bodies / departments,
societies, liquidators, receivers, trusts, etc. The other main features of current account are as under:

– Current accounts are non-interest bearing and banks are not allowed to pay any interest or brokerage tothe current account holders.

– Overdraft facility for a short period or on a regular basis up to specified limits – are permitted in currentaccounts. Regular overdraft facility is granted as per prior arrangements made by the account holderwith the bank. In such cases, the bank would honour cheques drawn in excess of the credit balance butnot exceeding the overdraft limit. Prescribed interest is charged on overdraft portion of drawings.

– Cheques/ bills collection and purchase facilities may also be granted to the current account holders.

– The account holder periodically receives statement of accounts from the Bank.

– Normally, banks levy charges for handling such account in the shape of "Ledger Folio charges". Somebanks make no charge for maintenance of current account provided the balance maintained is sufficientto compensate the Bank for the work involved.

– Third party cheques and cheques with endorsements may be deposited in the current account for collectionand credit.

(b) Current Deposits Premium Scheme:

This is a deposit product which combines Current & Short deposit account with ' sweep-in' and 'sweep-out' facility to take care of withdrawals, if any. Besides containing all features of a current account, the product is aimed at offering current account customers convenient opportunity to earn extra returns on surplus funds lying in accountwhich may not normally be utilized in the near future or are likely to remain unutilized. The automated nature of
facility for "Sweep In or Sweep Out" of more than a specified limit of balance to be maintained and creating fixed deposits for desired period, would save lot of operational hassles and add-on value in such accounts. Thus, withthis facility the customer shall be able to deploy his funds which in ordinary current account were not attractingany interest.

Sweep out from current to short deposits may be automatically when balance in the account is more than aspecified limit or weekly or on specific days which may be on 1st & 16th of every month or once within a month asprescribed by an individual bank.

(c) Savings Account

Savings bank accounts are meant for individuals and a group of persons like Clubs, Trusts, Associations, SelfHelp Groups (SHGs) to keep their savings for meeting their future monetary needs and intend to earn income from their savings. Banks give interest on these accounts with a view to encourage saving habits. Everyone wants to save for something in the future and their savings should be safe and accessible anytime, anyplace to help meet their needs. This account helps an individual to plan and save for his future financial requirements. In this account savings are completely liquid.

Main features of savings bank accounts are as follows:

– Withdrawals are permitted to the account-holder on demand, on presentation of cheques or withdrawal form/letter. However, cash withdrawals in excess of the specified amount per transaction/day (the amount varies from bank to bank) require prior notice to the bank branch.

– Banks put certain restrictions on the number of withdrawals per month/quarter, amount of withdrawal per day, minimum balance to be maintained in the account on all days, etc. A fee/penalty is levied if these are violated. These rules differ from bank to bank, as decided by their Boards. The rationale of these restrictions is that the Savings Bank account should not be used like a current account since it is primarily intended for attracting and accumulating savings.
– The Bank pays interest on the products of balances outstanding on daily basis. Rate of interest is decided by bank from time to time.
– No overdraft in excess of the credit balance in savings bank account is permitted as there cannot be any debit balance in savings account.
– Most banks provide a passbook to the account-holder wherein date-wise debit credit transactions and credit balances are shown as per the customer's ledger account maintained by the Bank.
– Cheque Book Facility Accounts in which withdrawals are permitted by cheques drawn in favour of self or other parties. The payees of the cheque can receive payment in cash at the drawee bank branch or through their bank account via clearing or collection. The account holder may also withdraw cash by submitting a withdrawal form along with Pass Book, if issued.
– Non-cheque Book Facility accounts where account holders are permitted to withdraw only at the drawee bank branch by submitting a withdrawal form or a letter accompanied with the account passbook requesting permission for withdrawal. In such cases third parties cannot receive payments.
– Almost all banks which provide ATM facility, give ATM cards to their accounts holder, so that they avail withdrawal facility 24 hours and all days at any place.

(d) Basic Savings Bank Deposit Account

With a view to making the basic banking facilities available in a more uniform manner across banking system, RBI has modified the guidelines on opening of basic banking 'no-frills' accounts'. Such accounts are now known as "Basic Savings Bank Deposit" Account which offers the minimum common facilities as under:-
– The account should be considered as a normal banking service available to all;
– No requirement of minimum balance;
– Facilitate deposit and withdrawal of cash at bank branch as well as ATMs;
– Receipt/credit of money through electronic payment channels or by means of cheques/ collection of cheques drawn by Central/State Government Agencies and departments;
– Account holders are permitted a maximum of four withdrawals in a month including ATM withdrawals;
– Facility of ATM card or ATM-cum Debit Card
– Facilities are free of charge and no charge would be levied for non-operation/activation of in-operative'Basic Savings Bank Deposit Account';
– Holders of 'Basic Savings Bank Deposit Account' are not eligible for opening of any other savings bank accounts and existing such accounts should be closed down within a period of 30 days from the date opening of 'Basic Savings Bank Deposit Account'.
– Existing 'no frills' accounts can be converted to 'Basic Savings Bank Deposit Account'

(e) Premium or Savings Bank Plus Account:

Premium Savings Account provides an enriched version of Savings Bank account consisting of various concessions and add-ons. It is suitable for High Net worth Individual/ Mass Affluent customers. The account will be linked toMulti Option Deposit (MOD) account, for auto sweep, for issue of Term Deposits and unitized break-up facilities.

Any surplus funds in the account exceeding the threshold limit, for a minimum amount of `10,000/- and in multiple of `1000/- in any one instance, are transferred as Term Deposit and earns interest as applicable to TermDeposits. The account is useful to those persons who have surplus funds for an uncertain period and by keepingthe fund in this Savings Bank account, they may get interest of term deposit. This account provides a customerthe convenience of a Savings Bank Account along with higher return of Term Deposit.

(f) Deposit at Call Accounts:

Call deposits or deposit at call accounts are maintained by fellow banks with another bank which are payable ondemand only. Some banks have put restriction of giving advance notice of a week or less than that when depositorrequires payment of call deposits. These accounts may or may not fetch interest, as per the rules framed by theRBI or Indian Banks Association (IBA) from time- to-time.

Term Deposits

(a) Recurring Deposits or Cumulative Deposits :

In Recurring Deposits accounts, a certain amount of savings are required to be compulsorily deposited at specifiedintervals for a specific period. These are intended to inculcate regular and compulsory savings habit among thelow/middle income group of people for meeting their specific future needs e.g. higher education or marriage ofchildren, purchase of vehicles etc. The main features of these deposits are:

– The customer deposits a fixed sum in the account at pre-fixed frequency (generally monthly/quarterly)for a specific period (12 months to 120 months).

– The interest rate payable on recurring deposit is normally the applicable rate of fixed deposits for thesame period.

– The total amount deposited is repaid along with interest on the date of maturity.

– The depositor can take advance against the deposits up to 75% of the balance in the account as on thedate of advance or have the deposits pre-paid before the maturity, for meeting emergent expenses. Inthe case of pre-mature withdrawals, the rate of interest would be lower than the contracted rate andsome penalty would also be charged. Similarly, interest is charged on advance against the deposits,which is normally one or two per cent higher than the applicable rate of interest on deposits.

(b) Monthly-Plus Deposit Scheme / Recurring Deposit Premium account

It is a recurring deposit scheme with flexibility of “Step-up and Step-down” options of monthly instalments. Thescheme is available to individuals, institutions, corporate, proprietorship or partnership firms, trusts, HUF, etc.

Under the scheme, the customer selects the “core amount” at the time of opening the account and deposits thesame initially. Minimum core amount may be `100 and maximum `1,00,000. Period of deposit will be pre-decidedby the customer himself. The depositor can deposit instalment in excess of the minimum core amount (but notexceeding ten times of the core amount) in the multiples of `100 in any month. Like stepping up the instalmentamount, a customer can also reduce the same (Step-down) in any subsequent months but no below the

coreamount. The interest on this scheme will be as per the term deposit rate applicable for the fixed period. Interestwill be calculated on the monthly product basis, for the minimum balance between the 10th and the last day of themonth and will be credited quarterly.

(c) Fixed Deposits

Fixed deposits are repayable on the fixed maturity date along with the principal and agreed interest rate for theperiod and no operations are allowed to be performed by the customer against the deposit, as is permitted indemand deposits. The depositor foregoes liquidity on the deposit and the bank can freely deploy such funds forloans/advances and earn interest.

Hence, banks pay higher interest rates on fixed deposits as compared to savings bank deposits from which hecan withdraw, requiring banks to keep some portion of deposits always at the disposal of the depositors. Anotherreason for banks paying higher interest on fixed deposits is that the administrative cost in the maintenance ofthese accounts is very small as compared to savings bank accounts where several transactions take place incash, transfer or clearing, thus increasing the administrative cost. Main Features of Fixed Deposits are as follows:

– Fixed deposits are accepted for specific periods at specified interest rates as mutually agreed betweenthe depositor and the banker at the time of opening the account. Since the interest rate on the deposit iscontractual, it cannot be altered even if the interest rate fluctuates - upward or downward - during theperiod of the deposit.

– The interest rates on fixed deposits, which were earlier regulated by the RBI, have been deregulatedand banks offer varying interest rates for different maturities as decided by their boards. The maturitywiseinterest rates in a bank will, however, be uniform for all customers subject to two exceptions -high value deposits above certain cut-off value and deposits of senior citizens (above the specifiedage normally 60 years); these may be offered higher interest rate as per specified Basis Points.

However, specific directions are issued by the bank’s board with regard to the differential rate andthe authority vested to allow such differential rate of interest, to prevent discrimination and misuse atbranch level.

– Minimum period of fixed deposit is 7 days, as per the directive of the RBI. The maximum term andband of term maturities are deter- mined by each bank along with the respective interest rates foreach band.

– A deposit receipt is issued by the bank branch accepting the fixed deposit- mentioning the depositor’sname, principal amount, maturity period and interest rate, dates of the deposit and its maturity etc.

The deposit receipt is not a negotiable instrument, nor is it transferable, like a cheque. However, aterm deposit receipt evidences contract for the deposit on the specified terms.

– On maturity of a deposit, the principal and interest can be renewed for another term at an interestrate prevalent at that time and a fresh deposit receipt is issued to the customer, evidencing a freshcontract. Alternatively, the deposit can be paid up by obtaining the discharge of the depositor on thereverse of the receipt.

– Many banks prepay fixed deposits, at their discretion, to accommodate customers’ request for meetingemergent expenses. In such cases, interest is paid for the period actually elapsed and at a rategenerally1 per cent lower than that applicable to the period elapsed. Banks also may grant overdraft/loan against the security of their fixed deposits to meet emergent liquidity

requirements of thecustomers. The interest on such facility will be 1 per cent - 2 per cent higher than the interest rate onthe fixed deposit.

(d) Special Term Deposits

Special Term Deposit carries all features of Fixed Deposit. In addition to these, interest gets compounded everyquarter resulting higher returns to the depositors. Now-a-days, 80% of the term deposits in banks is under thisscheme.

Higher Interest payable to Senior Citizens:

Persons who have attained the age of 60 years are “Senior Citizens” in regard to the payment of higher interestnot exceeding 1% over and above the normal rates of term deposits. Each bank has prepared its own scheme ofterm deposits for senior citizens.

(e) Certificate of Deposit:

Banks also offer deposits to attract funds from corporate companies and banks and other institutions. One suchimportant deposit product offered by banks is called as Certificate of Deposit (CD) . Special features of a Certificateof Deposit (CD):

1. Certificate of Deposit is issued at a discount to mature for the face value at maturity
2. Minimum amount for a CD is ` 100,000.00 (` One lakh only) and multiples thereof
3. Minimum and maximum period a CD with banks are 7 days and 365 days respectively
4. CDs differs from Banks’ Fixed Deposits (FDs) in respect of (i) prepayment and (ii) loans. While banksallows the fixed deposit holder the facility to withdraw before maturity (prepayment) and if required allowsthe fixed deposit holder to avail of a loan, both of them are not permissible in case of certificate ofdeposits. i.e., In case of Certificate of Deposits prepayment of CDs and loans against CDs are notallowed.

Hybrid Deposits or Flexi Deposits or MULTI OPTION DEPOSIT SCHEME (MODS)

These deposits are a combination of demand and fixed deposits, invented for meeting customer’s financialneeds in a flexible manner. Many banks had introduced this new deposit product some years ago to attract thebulk deposits from individuals with high net- worth. The increasing competition and computerization of bankinghas facilitated the proliferation of this product in several other banks in the recent past. Banks have given theirown brand names to such deposits *e.g.* Quantum Deposit Scheme of ICICI Bank, Multi Option Deposit Scheme (MODS) of SBI.

The flexi deposits show a fusion of demand and fixed deposits as reflected from the following features of theproduct:

– Only one savings/current account (Current Premium account or Savings Bank Premium a/c as alreadydiscussed above) is opened and the term deposits issued under the scheme are recorded only on thebank’s books as no term deposit receipts are issued to the customer. However, the term deposits issuanceand payment particulars would be reflected in the statement of the savings/current account for customer’sinformation/record.

– Once the quantum of deposits in savings/current account crosses a pre-agreed level, such surplusamount is automatically transferred to the term deposit account of a pre-determined maturity (usuallyone- year) in the customer’s name for increasing the interest earning.

– In the event of a shortfall in the current/savings account, the cheques drawn on the account are honouredby automatically transferring back the required amount to the savings/current account from the fixeddeposit account (reverse sweep). In such a case, the term deposit is

broken and the amount of thereverse sweep earns lower interest rate due to the pre-mature payment of that portion of the term deposit.
However, the remaining amount of the term deposit continues to earn the original interest rate.
Main Advantages of Flexi-Deposits to a Customer Are:
– Advantage of Convenience: The customer opens only one account (savings or current) under the schemeand need not come to the bank branch each time for opening term deposit accounts or for pre- paying/breaking term deposit for meeting the shortfall in the savings /current account.
– Advantage of Higher Interest Earning: The customer earns higher interest on his surplus funds than ispossible when he opens two separate accounts: savings and term deposits.
– Withdrawals through ATMs can also be conveniently made.
Exclusive Features:
– Complete Liquidity.
– Convenience of Overdraft.
– Earns a higher rate of interest on deposit, without the dilemma of locking it for a long period.
– At the time of need for funds, withdrawals can be made in units of `1,000/- from the Deposits by issuinga cheque from Savings Bank Account or through overdraft facility from Current account.
– Flexibility in period of Term Deposit from 1 year to 5 years.
Tailor-made Deposit Schemes
Almost all banks have designed different schemes with different names which have a combination of two or threedeposit schemes as mentioned above. These schemes are prepared as per the requirements of a particularcustomer. For example: One person approaches the bank and says that yesterday he has been blessed with agirl/boy baby and he wants to save for his/her educational and marriage expenses. Looking to the amount requiredfor education and marriage after a certain period as per the normal age of marriage, the Bank will suggest him a
scheme of Recurring Deposit plus Special Term Deposit. A few schemes are enumerated below:
(a) Advantage Deposit
Advantage Deposit is a combination of fixed deposit and mutual fund investment, offering you the safety of a fixeddeposit and the returns of an equity fund. Advantage Deposit counters equity-market fluctuations through SystematicInvestment Plans
– Combination of a Fixed Deposit (with monthly interest payout) and Systematic Investment Plan (SIP) ofa Mutual Fund.
– Re-investment of monthly interest payout of Fixed Deposit into systematic investment plan of MutualFund.
– Automatic debits to account through Standing Instruction / ECS debit mandate
(b) Child Education Plan
"Child Education Plan", is a unique way to save for child's future.
To fulfill child's dream & aspirations, begin by making small investments in a Recurring Deposit for a short tenureand receive regular payouts for the rest of the tenure in child's school/college life.
If a child is in kindergarten, a person can invest regularly for the next 5 years and this investment plan will takecare of his primary education.

If a child is in secondary school, just invest ` 3,500 (per month) for the first 6 years, in a plan of 10 years'tenure. Get an annual payout of more than `1 lac (depending upon the prevailing interest rates) for the next 4years and fulfill the dream of seeing the child graduate from a great college.

Eligibility

Child Education Plan can be opened for only minors (1 day to 18 years) under a Guardian (natural / courtappointed). The minor needs to have a Savings Account with a bank

(c) Insurance-linked Deposit Schemes

Some banks have designed certain schemes which provide personal accidental insurance to the savings bankdepositors free of cost or at a nominal rate under group insurance scheme. These marketing strategies areadopted for a limited period during a special deposit mobilization campaign so as to have an edge over in thecompetitive position. This gives an attraction to the new depositors and a few people tend to shift their accountsfrom one bank to another. For example : HDFC is giving free personal accidental insurance to its depositors with
certain conditions. One Regional Rural Bank is providing free accidental insurance to a new depositor during thefirst year and, thereafter, the bank charges `5 for `50000 personal accident insurance. Recently, Standard CharteredBank launched a savings account with cricket as the theme. Account-holders will score 'runs' for the transactions,which can then be redeemed for gifts such as tickets for cricket matches played in India, autographed cricketing
merchandise or sporting equipment from Nike.

(d) Deposit Schemes for a particular type of Segment clients:

Banks have special deposit schemes for senior citizens, school going children and women. Some banks paymore interest if the term deposit is in the name of a woman. Some concessions in regard to minimum balancerequirements and service charges are given to a particular segment client like salaried persons, army personnel.

Special Schemes for Non-Resident Indians (NRIs)

Non-resident deposits are mobilized from the persons of Indian nationality, or Indian origin living abroad (NRIs)and Overseas' Corporate Bodies (OCBs) predominantly owned by such persons.

1. Non-Resident Indians (NRIs) These fall into two categories:

(*a*) Indian citizens who stay abroad for employment/business/ vacation or for any other purpose in thecircumstances indicating an intention to stay abroad for an uncertain period. Income Tax Act has prescribedminimum residence period abroad in a year or block of years for determining income tax liability of suchpersons in India.

(*b*) Persons of Indian Origin (PIOs) other than Pakistan or Bangladesh, who had held Indian Passport at anytime, or whose parents or grand- parents were citizens of India, or the person is a spouse of an Indian citizen.

2. Overseas Corporate Bodies (OCBs): These refer to a company, partnership firm, society or other corporatebody owned directly or indirectly to the extent of at least 60 per cent by NRIs.

NRIs can maintain the following types of accounts with banks in India, which are designated as AuthorizedDealers (ADs) by the RBI.

(NRI accounts are exempt from income tax, wealth tax, gift tax. Loans against the security of these deposits canalso be granted by banks in India.)

(a) Ordinary Non-Resident (NRO)

NRIs can open Non-Resident Ordinary (NRO) deposit accounts for collecting their funds from local bona fidetransactions. NRO accounts being Rupee accounts, the exchange rate risk on such deposits is borne by thedepositors themselves. When a resident becomes a NRI, his existing Rupee accounts are designated as NRO.
Such accounts also serve the requirements of foreign nationals resident in India. NRO accounts can be maintainedas current, saving, recurring or term deposits. While the principal of NRO deposits is non-repatriable, currentincome and interest earning is repatriable. Further NRI/PIO may remit an amount, not exceeding US $ 1 millionper financial year, out of the balances held in NRO accounts/ sale proceeds of assets /the assets in India
acquired by him by way of inheritance/legacy, on production of documentary evidence in support of acquisition,inheritance or legacy of assets by the remitter, and an undertaking by the remitter and certificate by a CharteredAccountant in the formats prescribed by the Central Board of Direct Taxes vide their Circular No. 10/2002 datedOctober 9, 2002.

(b) Non-Resident (External) (NRE) Accounts

The Non-Resident (External) Rupee Account NR(E)RA scheme, also known as the NRE scheme, was introducedin 1970. Any NRI can open an NRE account with funds remitted to India through a bank abroad. This is arepatriable account and transfer from another NRE account or FCNR(B) account is also permitted. A NRE rupeeaccount may be opened as current, savings or term deposit. Local payments can be freely made from NREaccounts. Since this account is maintained in Rupees, the depositor is exposed to exchange risk. NRIs / PIOs
have the option to credit the current income to their Non-Resident (External) Rupee accounts, provided theauthorized dealer is satisfied that the credit represents current income of the non-resident account holders andincome tax thereon has been deducted / provided for.

(c) FCNR (B) Scheme

Non-Resident Indians can open accounts under this scheme. The account should be opened by the non-residentaccount holder himself and not by the holder of power of attorney in India.

– These deposits can be maintained in any fully convertible currency.

– These accounts can only be maintained in the form of term deposits for maturities of minimum 1 year tomaximum 5 years.

– These deposits can be opened with funds remitted from abroad in convertible foreign currency throughnormal banking channel, which are of repatriable nature in terms of general or special permission grantedby Reserve Bank of India.

– These accounts can be maintained with branches, of banks which are authorized for handling foreignexchange business/nominated for accepting FCNR(B) deposits..

– Funds for opening accounts under Global Foreign Currency Deposit Scheme or for credit to such accountsshould be recived from: -

– Remittance from outside India or

– Traveller Cheques/Currency Notes tendered on visit to India. International Postal Orders cannot beaccepted for opening or credit to FCNR accounts.

– Transfer of funds from existing NRE/FCNR accounts.

– Rupee balances in the existing NRE accounts can also be converted into one of the designated currencies at the prevailing TT selling rate of that currency for opening of account or for credit to suchaccounts.

Advantages of FCNR (B) Deposits

– Principal along with interest freely repatriable in the currency of the choice of the depositor.
– No Exchange Risk as the deposit is maintained in foreign currency.
Loans/overdrafts in rupees can be availed by NRI depositors or 3rd parties against the security of thesedeposits. However, loans in foreign currency against FCNR (B) deposits in India can be availed outsideIndia through correspondent Banks.
– No Wealth Tax & Income Tax is applicable on these deposits.
– Gifts made to close resident relatives are free from Gift Tax.
– Facility for automatic renewal of deposits on maturity and safe custody of Deposit Receipt is also available.

Payment of Interest

Interest on FCNR (B) deposits is being paid on the basis of 360 days to a year. However, depositor is eligible toearn interest applicable for a period of one year if the deposit has completed a period of 365 days.

For deposits up to one year, interest at the applicable rate will be paid without any compounding effect. In respectof deposits for more than one year, interest can be paid at intervals of 180 days each and thereafter for remainingactual number of days. However, depositor will have the option to receive the interest on maturity with compounding
effect in case of deposits of over one year.

No bank should:

(i) accept or renew a deposit over five years;
(ii) discriminate in the matter of rate of interest paid on the deposits, between one deposit and anotheraccepted on the same date and for the same maturity, whether such deposits are accepted at the sameoffice or at different offices of the bank, except on the size group basis. The permission to offer varying rates of interest based on size of the deposits will be subject to the following conditions:
(a) Banks should, at their discretion, decide the currency-wise minimum quantum on which differentialrates of interest may be offered. For term deposits below the prescribed quantum with the samematurity, the same rate should apply.
(b) The differential rates of interest so offered should be subject to the overall ceiling prescribed.
(c) Interest rates paid by the bank should be as per the schedule and not subject to negotiation betweenthe depositor and the bank.
(iii) pay brokerage, commission or incentives on deposits mobilized under FCNR(B) Scheme in any form toany individual, firm, company, association, institution or any other person.
(iv) employ/ engage any individual, firm, company, association, institution or any other person for collectionof deposit or for selling any other deposit linked products on payment of remuneration or fees or commissionin any form or manner.
(v) accept interest-free deposit or pay compensation indirectly.

Other aspects of deposit accounts

(a) A person who wants to open a deposit account has to fill up and sign the prescribed account openingapplication form and furnish:
– acceptable proof of his/her identity and residential address,
– his/her photographs, and
– initial deposit not less than the prescribed minimum balance prescribed by the bank.

KYC establishes the identity and residential address of the customers by specified documentary evidences. Oneof the main objectives of KYC procedure is to prevent misuse of the banking system for money laundering andfinancing of terrorist activities. The 'KYC' guidelines also reinforce the existing practices of some banks andmake them compulsory, to be adhered to by all the banks with regard to all their customers who maintain domestic
or non-resident rupee or foreign currency accounts with them. All religious trust accounts and non-religious trustaccounts are also subjected to KYC procedure. RBI had advised banks that :
(a) No account is opened in anonymous or fictitious/benami name (s)
(b) Bank will not open an account or close an existing account if the bank is unable to verify the identity orobtain documents required by it due to non-cooperation of the customer

Customer Identification Procedure

Customer identification means identifying the customer and verifying his/her identity by using reliable, independentsource documents, data or information. Banks need to obtain sufficient information necessary to establish, totheir satisfaction, the identity of each new customer, whether regular or occasional, and the purpose of theintended nature of banking relationship. Being satisfied means that the bank must be able to satisfy the competent
authorities that due diligence was observed based on the risk profile of the customer in compliance with theextant guidelines in place. Such risk based approach is considered necessary to avoid disproportionate cost tobanks and a burdensome regime for the customers. Besides risk perception, the nature of information/documentsrequired would also depend on the type of customer (individual, corporate etc.). For customers that are natural
persons, the banks should obtain sufficient identification data to verify the identity of the customer, his address/location, and also his recent photograph. For customers that are legal persons or entities, the bank should (i)verify the legal status of the legal person/entity through proper and relevant documents; (ii) verify that any personpurporting to act on behalf of the legal person/entity is so authorized and identify and verify the identity of that
person; (iii) understand the ownership and control structure of the customer and determine who are the naturalpersons who ultimately control the legal person.

Customer Identification Requirements

(i) Trust/Nominee or Fiduciary Accounts

There exists the possibility that trust/nominee or fiduciary accounts can be used to circumvent the customeridentification procedures. Banks should determine whether the customer is acting on behalf of another person astrustee/nominee or any other intermediary. If so, banks should insist on receipt of satisfactory evidence of theidentity of the intermediaries and of the persons on whose behalf they are acting, as also obtain details of thenature of the trust or other arrangements in place. While opening an account for a trust, banks should take
reasonable precautions to verify the identity of the trustees and the settlers of trust (including any person settlingassets into the trust), grantors, protectors, beneficiaries and signatories. Beneficiaries should be identified whenthey are defined. In the case of a 'foundation', steps should be taken to verify the founder managers/ directorsand the beneficiaries, if defined.

(ii) Accounts of companies and firms

Banks need to be vigilant against business entities being used by individuals as a 'front' for maintaining accountswith banks. Banks should examine the control structure of the entity,

determine the source of funds and identifythe natural persons who have a controlling interest and who comprise the management. These requirementsmay be moderated according to the risk perception e.g. in the case of a public company it will not be necessaryto identify all the shareholders.

(iii) Client accounts opened by professional intermediaries

When the bank has knowledge or reason to believe that the client account opened by a professional intermediaryis on behalf of a single client, that client must be identified. Banks may hold 'pooled' accounts managed byprofessional intermediaries on behalf of entities like mutual funds, pension funds or other types of funds. Banksalso maintain 'pooled' accounts managed by lawyers/chartered accountants or stockbrokers for funds held 'ondeposit' or 'in escrow' for a range of clients. Where funds held by the intermediaries are not co-mingled at the bank and there are 'sub-accounts', each of them attributable to a beneficial owner, all the beneficial owners mustbe identified. Where such funds are co-mingled at the bank, the bank should still look through to the beneficialowners. Where the banks rely on the 'customer due diligence' (CDD) done by an intermediary, they should satisfythemselves that the intermediary is regulated and supervised and has adequate systems in place to comply withthe KYC requirements. It should be understood that the ultimate responsibility for knowing the customer lies withthe bank.

(iv) Accounts of Politically Exposed Persons (PEPs) resident outside India

Politically exposed persons are individuals who are or have been entrusted with prominent public functions in aforeign country, e.g., Heads of States or of Governments, senior politicians, senior government/judicial/militaryofficers, senior executives of state-owned corporations, important political party officials, etc. Banks should gathersufficient information on any person/customer of this category intending to establish a relationship and check all
the information available on the person in the public domain. Banks should verify the identity of the person andseek information about the sources of funds before accepting the PEP as a customer. The decision to open anaccount for a PEP should be taken at a senior level which should be clearly spelt out in Customer AcceptancePolicy. Banks should also subject such accounts to enanced monitoring on an ongoing basis. The above normsmay also be applied to the accounts of the family members or close relatives of PEPs.

(v) Accounts of non-face-to-face customers

With the introduction of telephone and electronic banking, increasingly accounts are being opened by banks forcustomers without the need for the customer to visit the bank branch. In the case of non-face-to-face customers,apart from applying the usual customer identification procedures, there must be specific and adequate proceduresto mitigate the higher risk involved. Certification of all the documents presented should be insisted upon and, if
necessary, additional documents may be called for. In such cases, banks may also require the first payment to beeffected through the customer's account with another bank which, in turn, adheres to similar KYC standards. Inthe case of cross-border customers, there is the additional difficulty of matching the customer with thedocumentation and the bank may have to rely on third party certification/introduction. In such cases, it must beensured that the third party is a regulated and supervised entity and has adequate KYC systems in place.

(vi) Basic Savings Bank Deposit Accounts (No-Frills Savings Bank accounts)

(i) Persons those belonging to low income group both in urban and rural areas are not able to produce suchdocuments to satisfy the bank about their identity and address. This may lead to their inability to accessthe banking services and result in their financial exclusion. Accordingly, the KYC procedure also providesfor opening accounts for those persons who intend to keep balances not exceeding Rupees Fifty Thousand(` 50,000/-) in all their accounts taken together and the total credit in all the accounts taken together is notexpected to exceed Rupees One Lakh (` 1,00,000/-) in a year. In such cases, if a person who wants toopen an account and is not able to produce documents mentioned as mentioned in the chart below,banks should open an account for him, subject to:Introduction from another account holder who has been subjected to full KYC procedure. The introducer'saccount with the bank should be at least six months old and should show satisfactory transactions.Photograph of the customer who proposes to open the account and also his address need to be certifiedby the introducer,**or**any other evidence as to the identity and address of the customer to the satisfaction of the bank.

(ii) **(ii)** While opening accounts as described above, the customer should be made aware that if at any point oftime, the balances in all his/her accounts with the bank (taken together) exceeds Rupees Fifty Thousand(` 50,000/-) or total credit in the account exceeds Rupees One Lakh (` 1,00,000/-) in a year, no furthertransactions will be permitted until the full KYC procedure is completed. In order not to inconvenience thecustomer, the bank must notify the customer when the balance reaches Rupees Forty Thousand (`40,000/-) or the total credit in a year reaches Rupees Eighty thousand (` 80,000/-) that appropriatedocuments for conducting the KYC must be submitted otherwise operations in the account will be stopped.

QUESTIONS:

1. What are the obligations and the rights of a banker?
2. Explain the relationship of a banker and customer in following cases:

– As debtor and creditor
– Banker as trustee
– Bailee/ bailor
– Lesser/ lessee
– Banker as agent

3. Explain various types of customers and various deposit schemes.
4. Write Short notes on :

(a) Payment in due course
(b) Usance Bill of Exchange
(c) Special crossin

5. How can a banker protect the interests of the bank while handling cheques,
(i) as a collecting banker and
(ii) as a paying banker?
6. Why banks obtain more than one loan document?
7. What precautions banks should take in case of discounting of bills?
8. Discuss breifly the main features of cheque.