2.1 ANTECEDENTS OF ETHICS:

The term ethics is derived from the Greek word ἑθος meaning ‘custom and usage,’ it is more properly identified as originating from σωθέθος, in which the concept of individual morality and behavioural habits are related and identified as an essential quality of existence (Hisrich et.al., 2010). Shea in 1988 defines ethics as the principle of conduct governing an individual or a profession and ‘standards of behaviour’ (Murthy, 2004). Tandon (1994) stated that ethics was advocated many decades back by the greatest Greek philosophers: Socrates, Plato and Aristotle. The creator of ethics as a study of morality was the Greek philosopher Socrates (470-399 BC), who used ethics to define the terms of human virtues. The most important personal values identified are: righteousness, courage, honesty, tolerance, goodness, sincerity and fairness. Bozovic (2007) referred that in the field of ethics, Socrates and the entire Hellenic world saw the issue of goodness in human life i.e., happiness, as the most vital. Goodness is a human characteristic and the greatest moral value. Socrates believed that virtue can be taught, i.e. virtue is knowledge and added that knowing oneself is a prerequisite for happiness. Plato (428-427 BC) thought of happiness as an inner feeling and disrespect of ethical principles which leads to unhappiness. Thus, those who seek happiness must practice self-control and adjust their behaviour in conformity to ethical principles. A similar view was expressed by Plato in his "Republic", where he articulated that those who are happy are the ones who are just and who live an honest life, while those who are unjust are unhappy and the tyrant of the state also becomes the greatest tyrant of his own happiness. A man should strive towards his own happiness but he has an even greater aim of making his community happy. Similarly, Aristotle (384-322 BC) enumerates the basic principles that happiness can be divided into: wisdom, virtue and welfare. He sees happiness
only as the subjective side of goodness. Aristotle thought that in order to do good, human impulses and instincts must always be governed by reason and may not be good in them. The Stoics and the Epicureans, Augustine, Aquinas, Spinoza, Kant and Hegel further contributed to the theory of ethics based on Aristotle's teaching.

Mathias (1994) highlighted that the Indian history and culture offers a good ground for the rooting of business ethics. About 1000 to 1600 BC, the first definition of social and business ethics in India was framed. Tandon (1994) further avowed that the history and culture of India offers a good ground for the rooting of business ethics. In Bhagvad Gita, Lord Krishna had laid down the rights and obligations of each individual. He affirmed that the manager must see that the task that has been assigned for him, not considering his personal gain or profit but must discharge his responsibility purely in terms of fulfillment and that which gives him satisfaction in true sense. In the Aryan ethical code, there were rights and obligations for the sons who inherited their father’s property would also inherit the debts and the debts would go down to two generations. The Roman law laid down the similar obligations almost 1300 years later. In the Mauryan era the concept of accountability of the manager was first laid down. In the later centuries when India had various invasions, ethics had weakened and it no longer played the same role. But ethics did come back at the time of Akbar’s regime since he conceptualized and designed something indispensable for regular ethical functioning i.e., a comprehensible and stable commercial framework. The British East India Company where ethics wavered till 1947 gave India a complex but a good system of rights, obligations, duties and an operational framework. Mahatma Gandhi too advocated that it is wrong to think that business is incompatible with ethics and it is possible to carry on business profitably and yet honestly and truthfully.
Of all the definitions given to the term ‘ethics’, the vital points has been summarised as under by Adam (2012):

- Identifying what is right and what is wrong,
- Identifying a generally acceptable standard of behavior,
- Identifying a system of moral principles and rules of conduct for a specific group of people or professionals and finally,
- Making specific choices of complying, obeying and practicing the right or deviating to the wrong side of the balance.

2.2 RELATIONSHIP OF ETHICS WITH ANALOGOUS CONCEPTIONS:

The following portrays the relationship of ethics with other similar concepts:

2.2.1 ETHICS AND MORALITY:

Morality tends to be more universal and prescriptive and when there is a conflict between ethics and morality, the latter must succeed. A person may cheat in a game to win, in such a case the activity is considered unethical, it may not necessarily account for immoral as immorality is much greater character flaw than being unethical. Unethical behaviour may arise in only certain circumstances or situations but immorality possesses fundamental flaws rendering one untrustworthy in most of the situations (Suresh and Raghavan, 2007).

2.2.2 ETHICS AND VALUES:

Edward Spranger (1928) states ‘values’ as the constellation of likes, dislikes, view points, inner inclinations, rational and irrational judgments, prejudices and association patterns that determines a person’s view of the world. Murthy (2004) has
classified values into four aspects, viz; criteria for accepting values, values required to be optimized, values in the nature of rights of beneficiaries and institutionalizing ethical implementation of values. He has identified 26 values in relation to business ethics which may contradict and overlap each other. Suresh and Raghavan (2007) referred that values is what makes actions, character, traits and objects good or bad. Values and Ethics are not different from the whole identity and both collectively define the true self of an individual. Hill and Jain (2010) opined that like a society an organisation too has a culture which is a combination of values and norms. Values are abstract ideas and belief of few top managers while norms are the social guiding principle stipulating behaviour in particular circumstances. These two components have a major influence on the ethics of a business.

2.2.3 ETHICS AND LAW:

Ethics are neither codified in books nor enforced on anyone by anybody. Unlike ethics, law is stringent rules of actions enforced by the legal authority which requires compliance and have a legal binding force. Failure to follow the law shall invite legal consequences. Ethics constitutes a higher standard than that of law (Suresh and Raghavan, 2007). Donaldson (1994) advocated that ethics can achieve much more to the society than what actually a binding law cannot accomplish. Mathias (1994) opines that not everything that is illegal is immoral; similarly not everything that is immoral is illegal. There are few laws which are considered in appropriate in certain circumstances.
2.2.4 ETHICS AND RELIGION:

Traditionally, a more important link between religion and ethics was that religious teachings were thought to provide a reason for doing what is right. The reason was that those who obey the moral law will be rewarded by an eternity of bliss while everyone else will go to hell (Source: Encyclopedia Britannica). Donahue (2006) affirms that the relationship between religion and ethics is about the relationship between revelation and reason. Religion is based in some measure on the idea that God reveals insights about life and its true meaning. These insights are collected in texts of the holy books (the Bible, the Torah, the Koran, the Bhagvad Gita etc.) and presented as “revelation.” From the stance of humanistic approach, ethics is based on the doctrine of reason. Anything that is not rationally verifiable cannot be considered justifiable. From this perspective, ethical principles need not derive their authority from religious dogma. Instead, these principles are upheld for their value in promoting independent and responsible individuals—people who are capable of making decisions that maximize their own well-being while respecting the well-being of others.

2.3 RATIONALE BEHIND THE DEVELOPMENT OF ETHICAL PRINCIPLES:

There are innumerable factors that affect the growth and advancement of ethical principles of an individual. An individual as a professional is required to act in a different manner depending upon his position and job status. He develops an ethical ideology from learning at various stages of life, including prior incidents and from observation as well.

An individual’s psychology is developed by the way he is groomed and taught since childhood. Friends, relatives, religion, culture and the environment collectively influences the ethical perspective of an individual.
Even though the law is binding yet it cannot compel an individual to be ethical unless he identifies, understands and upholds the concept of ethics to act accordingly when the circumstances demand. John Akers (former chairman of the board of IBM) strongly believes that education in ethics should begin in childhood development including practical devices as role models and codes of conduct and also through the study of literature and history. Shiv Khera, a renowned Indian motivational speaker asserted that values and ethics break under pressure but one should not allow the values to deteriorate. But however, the researcher observed that person who is ethically sound will try hard not to resort to something unethical even in a challenging situation.

Josephson (2013) highlighted that in today’s ultra competitive, high tech, interdependent business world, charisma without conscience and cleverness without
character are a formula for economic and personal failure. Abraham Lincoln described character as the tree and reputation as the shadow. One’s character is what he really is and one’s reputation is what people perceive about him. The author has recognized 12 ethical principles of a business executive, viz; honesty in all actions, maintaining personal integrity, fulfilling commitments, being loyal within the framework of ethical principles, being fair and just, showing compassion towards others, treating others with respect, abiding with the law, commitment to excellence, exemplifying honour and ethics with effective leadership, building company’s reputation and increasing the employees moral and being accountable.

It is observed that an organisation with strong ethical principles can bring considerable benefits to their business, such as:

- Boosting the sales and profits by attracting the customer’s to the firm’s products or services;
- Reducing the labour turnover and thereby increasing the productivity by retaining the employees in the business;
- Reduction of recruitment costs by attracting the talented prospective employees who are eager to be associated with the organisation; and
- Protecting the business from takeovers by attracting the investors and keeping the company’s share price high.

2.4. BUSINESS ETHICS:

"Business that makes nothing but money is a poor kind of business” - Henry Ford

Before 16th century there was no business ethics as per the Christian theology, work was a curse and the chase for money was considered immoral. At that point the religion played a vital role and had a strong influence on both individual and
government. According to the church’s view there was no requirement for ethics in business and hence the businessman did whatever they wanted to do. It was the Protestant revolution that paved the way for business ethics by making financial success moral (Bhalla and Ramu, 2006). Many people deny the connection between ethics and business, believing that the place of morality is within religion, while others perceive the interconnection between morality and religion. Every business activity has certain things in common with morality and moral actions of an individual or groups. During the initial period of Industrial Revolution it was considered that business and ethics do not go together. The popular concept was that if it is business then it is not ethical and if it is ethical it does not represent business. Even the private companies making profits were viewed with disclaim.

Drucker (1975) remarked that there is neither a separate business ethics nor one is required. Human beings acquire the ordinary rules of personal behaviour and they behave accordingly even at their place of work. Cyriac (1994) strongly advocated that there is a definite relationship between ethics and business. Nair (1994) opined that practicing of ethics in an organisation requires two vital aspects: firstly, a clear sharing and understanding of the organisation’s position on various issues and secondly, the number of times the actual practice is consistent with the stated positions. Hill and Jain (2010) referred that business ethics are the accepted principles of right or wrong governing the conduct of the business people. Jain (2008) stated that business ethics deals with the issues regarding moral and ethical rights, duties and corporate governance between a company and its shareholders, employees, customers, media, government, suppliers and dealers. Ethics is related to all disciplines of business like accounting information, human resource management, sales and marketing, production and operation, information and technology etc.
In the world of business the organization's culture sets the standards for determining the difference between good or bad, right or wrong, fair or unfair. Some management thinkers stressed that ethical companies have an advantage over their competitors. Usually a valued company earns a kind of customer loyalty which most of the companies only dream of because the business as a whole appeals to its customers more than a product.

Donaldson (1994) referred that a milestone study conducted by Johnson & Johnson which tracked companies over a 35 years period from the 1950’s to 80’s, evidently revealed that a company’s ethical reputation affects the market value of its shares. George (2008) stated that business ethics as an individual area of study was recognised in 1970’s in the United States of America and in the 1980’s in the continents of Europe, Australia, Asia, Africa and South America. He further referred that practicing of ethics in corporation involves – ethical behaviour on the part of the business houses, responsibility of the corporation towards the society at large, application of meta-ethical i.e. using appropriate ethical and moral language in its dealings. Cherunilam (2010) stated that what is ethically wrong in one country may not be so in another nation. There are regulations in some country where bribing is considered illegal within the territory while bribing by the nation’s firm in foreign markets for conducting business may not be illegal. Mathias (1994) affirmed that ethics, corporate social responsibility and idealistic mission statements are in direct proportion to the prosperity of a company and is inversely related to the harshness of the competition it faces. Sullivan and Brown (1994) stated that the ethics has become a buzzword in the corporate world and its importance is increasing by each passing day mainly due to severe media inquiry of the corporate houses.
The ethical issues in business have become more complicated because of the global and diversified nature of many large corporations and because of the complexity of economic, social, environment, political, global, legal and government regulations. Hence, it is the organisation that has to decide whether to adhere to constant ethical principles or to adjust according to the domestic standards and culture. Ethics is indispensable not only in business but in all aspects of life because it is the vital part and the foundation on which the society is build. Mathias (1994) referred that a business that lacks ethical principles is bound to fail sooner or later. Ethics creates credibility with the public, employees, helps in better decision making. According to International Ethical Business Registry, there has been a dramatic increase in the ethical expectation of businesses and professionals over the last one decade.

The basic ethical principles recognised by Bozovic (2007) in a business are:

- Principle of mutual trust is vital for the success in the business operation.
- Principle of mutual benefit and interest signifies that the partners should not feel that they are deceived and betrayed.
- Principle of good intentions is crucial for the business as it indicates that the partners are not treated in an immoral and dishonest way.
- Principle of business compromise and business tolerance specifies to the co-ordination of the conflicting interests of participants in the business process;
- Principle of ethical improvement of business behaviour symbolizes acceptance of mistake made by the partners.
- Principle of de-monopolization of one's own position because monopolistic behaviour in the market does not contain any ethical market value; and
• Principle of conflict between one's own interests refers to the inability to relate in common to the personal interests, with simultaneous adherence to the same ethical values.

2.5 BANKING ETHICS:

Banks are not only a key vehicle for economic development but also ensure the financial stability of an economy and thus the success of the banks, both in short and long term depends on trust and confidence between all the stakeholders. Globally, banks are more regulated than any other institutions because of their role as financial intermediaries. As financial intermediaries, banks mobilize funds from the surplus spending units and make it available to the deficit spending units at a price. Banks also provide an efficient payment mechanism in the economy. They provide smooth and efficient system for making payments to settle business and personal transactions as well as international obligation of their customers. However, banks must operate within certain guidelines, either as defined by regulator, public policy or industry practice. Banking is essentially based on trust where depositors entrust their funds to banks for safety and investment. Consequently, banking business must be done in a transparent and ethical manner to uphold the trust of the stakeholders. The number of ethical questions that the banking industry faces are many and multifaceted but in a broader perspective an ethical bank must have a policy that takes into consideration those questions that 21st century globalization and the social and environmental issues thereon poses.

Money is an important tool and its inappropriate use will have an adverse effect in the global economy and as such bank failure in one country will too have an impact in the other nations as witnessed in the US in the recent past where
irresponsible credit lending practices have led to financial meltdown. One serious outcome of the economic downturn of 2008 was a deeply embedded distrust of banks by the general public. Effective market discipline requires that there exists a culture of financial transparency and ethical standards in the banks worldwide. Banks have however often been criticized for indulging in unethical and unprofessional practices. Banks are not only expected to operate professionally but ethically so that the general public would have confidence in the system. Banking ethics is all about loyalty and honesty to customers and other stakeholders, trustworthiness, impartiality, valuing principled business behavior and functioning with a high degree of transparency.

Even though sufficient legislation has been enacted to regulate banking operations in India and ensure a fair competitive environment but these regulations and penalties alone are not sufficient to ensure discipline in the operations. Consequently, high ethical standards are expected to guide operations in the banking industry. When unethical banking activities takes place it results into social and economic loss and create unnecessary friction in the economy. Legally, banks are obligated to act in a manner that safeguards public interests and when banks fail to meet the standards and expectations, the interests of all parties are put at risk.

Ethical values and behaviour of the bank employees plays a significant role in creating and maintaining mutual trust and confidence. Banks should value the relevance and adopt ethics while aiming to maximize their profit.

Banking ethics in general can be described as honesty, impartiality, trustworthiness, compatibility and transparency. This can be further elucidated as:

- **HONESTY**: Banks must be honest to their customers, employees, shareholders, competitors and the other organizations that they are in touch with.
• IMPARTIALITY: Banks should act in an impartial manner and must not discriminate between the customers and the employees or between any of the stakeholders.

• TRUSTWORTHINESS: Banks must carry out all their activities timely, precisely, accountably, accurately and inform their clients accordingly.

• COMPATIBILITY: Banks must carry out all their activities in accordance to the banking rules and regulations.

• TRANSPARENCY: Banks dealings must be made by them in a transparent way by providing clear and easily understandable information about their products, services, risks and benefits to their customers.

2.6 KEY ETHICAL THEORIES:

Ethical theories play a crucial role when an individual has to make a decision where ethics comes to play. Ethical theories provide a framework and guidelines for judging right or wrong decisions. There are many ethical theories but this study will discuss only the major ethical philosophies that are applied in business ethics:

2.6.1 TELEOLOGICAL THEORIES:

These theories focus on the consequences of action. The most universal teleological theories of ethics are egoism and utilitarianism but there is dissimilarity between these two theories. While in egoism, the consequences to one’s self defined actions as ethical or unethical is concerned while in utilitarianism the consequences to others defined actions as ethical or not.
• **EGOISM:**

The view that equates morality with self-interest is referred to as egoism. An egoist contends that an act is morally right if and only if it best promotes his or her interests. Moral philosophers distinguish between two kinds of egoism - personal and impersonal. Personal egoists claim that they should pursue their own best interests but they do not say what others should do. Impersonal egoists claim that everyone should let self-interest guide his or her conduct.

• **UTILITARIANISM:**

It is based on the principle of greatest happiness i.e. what makes something good or bad, right or wrong and that which produces the greatest amount of pleasure for the greatest number of people. Jeremy Bentham and John Stuart Mill were important early utilitarians. The theory holds that the moral worth of actions or practices is determined solely by their consequences. This act argues that in all situations the utility of an action is based on an act that leads to the greatest good for the greatest number, treats rules as useful guidelines to help determine ethical behavior and will break a moral rule, if breaking the rule leads to the greatest good for the greatest number.

Utilitarian evaluate actions according to their consequences and because actions produce different results in different circumstances and affect people to different degrees. They wish to maximize happiness not simply immediately but in the long run as well. Utilitarian acknowledges that often it is not known with certainty what the future consequences of our actions will be. Accordingly, we must act so that the expected or likely happiness is as great as possible. This theory can be used in formulating policies, resolving conflicts of self-interest and provides a flexible, result-oriented approach to moral decision making. Utilitarian decision-making relies
on tools such as cost-benefit analysis and risk assessment to determine the greatest utility.

2.6.2 DEONTOLOGICAL THEORIES:

In deontological theories actions are judged as ethical or unethical based on duty and the intentions of an actor. The most important defender of deontological ethics is Immanuel Kant who believed that morality should follow absolute rules that divulges no exceptions, which has been a major argument against this theory. Another argument against Kantian theories is that they are narrow and inadequate to handle various problems in the moral life. The principle is categorical because it admits no exceptions and is absolutely binding and is imperative because it gives instruction on how one must act.

2.6.3 RIGHTS THEORIES:

A moral theory based on the concept that all people have human rights that form the justifying basis of obligations as they best express the purpose of morality, which is the securing of liberties or other benefits for a right-holder. Human rights are held independent of membership in a state or other social organization. Human rights evolved from the notion of natural rights which are rights that belong to all persons purely by the virtue of their being human. Negative rights pertain to the obligations on the part of other people to refrain from interfering with our freedom of action. Positive rights impose obligations on people to provide other people with goods or services. A primary problem with this theory is that there is no hierarchy for right’s claims as how does someone determine which right takes precedence or has more value over other rights.
2.6.4 VIRTUE THEORIES:

This moral theory suggests that morality is comprised of virtue which has to do with a person's character and the types of actions that emanate from that character. Some typical virtuous traits in the business arena would be integrity, honesty, truthfulness, courage, loyalty, courteousness and conscientiousness. Virtuous traits are acquired and developed throughout our life experiences. A primary problem with this theory is that people have varying definitions of what traits are considered virtuous.

2.7 TRAINING ON ETHICS AND ETHICAL AWARENESS:

There are some universal human values which need to be sermonized and followed by the professionals for building a congenial and ethical workplace. Since people with different perspective, temperament, cultural, social, religious background comes to work together it becomes essential to impart effectual training on ethics and inculcating corporate values through effective training not only at the time of induction but throughout their professional life. Ethics training should put together rules and value-based training as it will guide the employees at the time of ethical dilemmas when there is an ethical calling and also prepare them for situations that banking code do not cover.

At the international stratum a number of firms are hiring ethics officers who act like internal ombudsperson. They are given the onus to make a scrutiny that all the employees are trained to be ethically responsive and strictly adhere to the organisation’s code of ethics (Hill and Jain, 2010). Bhalla and Ramu (2006) opined that emphasis on education and training in corporate ethics has been given due importance by many organisations to be an integral part for ensuring compliance with the business standards for conduct. Ethics workshops and training courses can assist
the employees to find solutions at the time of ethical dilemma. In order to resolve any ongoing ethical issues these forums can be quite helpful.

With the Indian banking shifting gear from vanilla banking to multi-specialist banking, in tune with the trends of differentiation and specialization, the Khandelwal Committee (June, 2010) believed that the gaps in many of the skills would need focused attention on the part of bank managements. Developing talent pool for different areas of skills will thus be the foremost concern for the training systems of banks.

It has been observed from the study that both the public and private sector banks under the study conducts different training on various banking issues like credit management, compliance and risk management, management development programmes, soft skill development programmes, HR skill, priority sector financing, programme on inspecting officers and internal auditors of banks, NPA management, monitoring and recovery management etc. Even though the banks carry out behavioural training programmes, issues relating to ethics and its practice in banking consist only few sessions within the training programme. No exclusive training is given to the Indian bankers regarding banking ethics.

IIBM too conducts programmes for diverse issues which are briefly discussed:

- Attitude, Values and Skills
- Cyber Frauds in banks and related issues
- Individual’s Ego States and Impact on Behaviour
- Conflict and Confrontation
- Work environment- Impact of people skills on the job
- Time and stress management
- Emotional Intelligence
The banks carry out their training either in-house or at their respective specialized centres and also at Indian Institute of Bank Management (IIBM). However, at IIBM (Guwahati, Khanapara) the participation of the public sector bankers is comparatively more than the private sector bankers. It is revealed from the field survey that the vital factor for non-participation of the private bankers was because the training programmes are expensive and private bankers are more cost sensitive. They prefer to train their newly appointed as well as the existing officers by their in-house faculty. Hence the private bankers lose the opportunity to interact with their counterparts working in other banks in the same platform and are confined within their own shell in matters regarding training.

Table 2.7.1: Training activities of public and private sector banks.

<table>
<thead>
<tr>
<th>PARTICULARS</th>
<th>PUBLIC SECTOR BANKS</th>
<th>PRIVATE SECTOR BANKS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Training Programmes</td>
<td>State Bank of India</td>
<td>Central Bank of India</td>
</tr>
<tr>
<td></td>
<td>Credit management, Risk management,</td>
<td>Computer Basics, Loan and Management</td>
</tr>
<tr>
<td></td>
<td>Management Information system, Behavioural Science, Skill Development</td>
<td>Advances, Bank-customer relationship, Human resource</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Product based training and soft skill training</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Swagat (Induction) training, Wealth Management training, Disha (Leadership) training, Management Development</td>
</tr>
</tbody>
</table>

59
<table>
<thead>
<tr>
<th>Programme, NPA management, Management development programmes etc.</th>
<th>development etc.</th>
<th>Programme, Team Motivation training etc.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Banking Ethics Training programme</strong></td>
<td>No exclusive training on banking ethics. It forms a part of Behavioural Science training programme. Few sessions are conducted for Ethics, Professional Behaviour, Values, Attitudes etc.</td>
<td>No exclusive training on banking ethics. Training is given regarding ethics, code of ethics during the sessions of soft skill training programmes. Global mailer which is a self-learning exercise is circulated to all who has accessibility.</td>
</tr>
<tr>
<td><strong>Trainers</strong></td>
<td>In-house faculty specially trained in the Apex centres in Gurgaon and</td>
<td>Training Centres in Guwahati (Bhangagarh),</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Thorough training and motivation programmes should be designed for the front office (customer-facing) staff so that they are able to professionally handle the customers and meet the customer’s expectation. The managers and bank staff must also be trained on behavioural psychology so that they develop expertise skill in dealing with various classes of customers. The bank staff needs to be trained to adopt

<table>
<thead>
<tr>
<th>Hyderabad.</th>
<th>Mumbai and Pune.</th>
<th>house bankers while soft skill training is generally outsourced.</th>
<th>direction from the top Management.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>There are a number of training hub locations depending upon the regions, such as, Guwahati, North I and North II (New Delhi), Bhubaneswar, Kolkata etc.</td>
<td>Trainers from L &amp; D Hub (Kolkata) and TMI (Singapore Consultancy Group) also impart varied banking training.</td>
</tr>
</tbody>
</table>

*Source: Field survey, July-August 2013*
the best banking practice in product development, management information, stakeholder management, bank customer demand, operational efficiency, team building and performance metrics etc. The bank’s senior officers ought to be trained to access and improve their ability to function as high performing units.

Furthermore, the researcher observed that in most of the cases the bank officials lack professional behaviour towards the customers especially to the ignorant senior citizen and the people from the vulnerable class of the society. When interrogate some of the bank officers opine that this is mainly because of stressful banking job which demands long hours of work, huge volume of work load and constant pressure to meet the target which subsequently has resulted in the deterioration of the ethical values and are also encouraging the adoption of unfair means.

Even though the bankers are provided with behavioural training yet there is deficiency of regular monitoring regarding the employees behaviour. The customers on their part are too not informed about the process of filing a complaint against the bank personnel to the higher authority or simply pay no heed thinking it to be a hassle. It is ironical but it has been observed that a professional behaves the best when his job is not secured or he is in probationary period but however once his job is permanent his behaviour and attitude too changes. It is so because it is difficult to take an action against him as he becomes a permanent employee and will get the support from the union and also in the worst situations the process of firing him will call for lengthy protocol. This is particularly true in case of public sector banks.
2.8 CODE OF ETHICS:

Code of ethics is the general value system that is expected to bring about discipline and professionalism in the industry. Mathias (1994) opined that every organisation must have a code of ethics and all the employees including the new entrants must mandatorily possess a copy of it. Special sessions should be conducted in order to train the employees regarding the implementation of the code. Such training will be beneficial for the employees and enhance their ethical thinking and decision making capability. Donahue (1994) affirmed that an employee have to follow two sets of code of ethics viz; a personal one for his family and the organisational code for his profession. Narasimhan (1994) viewed that the code of ethics should possess the three essential features: organisation’s interest must be above the interest of the individuals, the interest of the society must be above the organisation’s interest and disclosure of truth in all the cases. Sciortino (1994) stated that the code of ethics comprises an extensive area covering honesty, compliance of law, quality and safe product, fairness in its dealings, healthy and safe work place, financial reporting and protection of the ecology. Bhalla and Ramu (2006) were of the view that the greatest advantage of having a code of ethics is its ability to set a highly responsible tone for the organisation. In the long run these high ethical standards will reap into higher profits. Murthy (2004) stated that the most simplest way of institutionalising ethics in an organisation is to establish ‘Code of Ethics’ and that the term is often used interchangeably with code of conduct and code of practice. Kumar et al. (2003) highlighted that nearly 95% of fortune 500 companies have code of conduct which they follow. In the year 1966 the Council for Fair Business Practices (CFBP) established by the leading private sector industrialists in the western India has given certain ethics which are applicable to business. Suresh and
Raghavan (2007) opined that regular meetings should be organised to communicate and to create awareness and the implementation of the code of ethics. Adams (2012) further referred that code of ethics is not only needed for its mere compliance by the employees but is also essential as it builds a congenial business environment of mutual trust, healthy bank-customer relationship, better quality of service, transparency and finally good corporate governance.

Figure 2.8.1: Organisation’s Code


The prime aim of the code is to enable the banks and their employees to know in apparent terms about the doings and practices that are considered unethical and the necessary actions that would be taken up for non-compliance with the code. In the banking sector, the business ethics principles would be implemented in an organized fashion, aided by normative and legal regulation in the field of bankers' business activities. The application of the code of ethical principles would establish a
defensive mechanism in the area of application of ethical values since the position of a particular profession requires more stringent moral standards and involves sanctions for the breach of the same.

Laczniak (1983) had stated five ethical standards, viz;

- **The golden rule**: Everything you want others to do to you, you shall do to others.
- **The utilitarian principle**: Act in a manner that is going to do the greatest good to the greatest number.
- **Kant’s categorical imperative**: Act in a manner that the action taken could be the universal law or rule of behaviour under the circumstances.
- **The professional ethics**: Take actions that a disinterested panel of professional colleague would view as proper.
- **The TV test**: Would question oneself whether one will be comfortable in front of the national television to announce the reason for taking the action.

Professionalism and ethics are two concepts that are dependent on each other for an employee to prove their compliance with good and acceptable standard of practice (Adams, 2012). In each profession there is an ethical code of conduct which needs to be followed. Such moral norms are established and applied in order to govern the internal relations and the relations with other groups. The adoption of ethical standards in the form of a code of appropriate conduct could contribute to understand the broader community as well as binding to the professionals failure to which will result into severe disciplinary actions. Therefore, it is necessary to accomplish the following:

- Ethical standards should be made official so that there is a legal framework that can be followed.
• Existence of an ethical advisory support so that the professional can easily refer in the situation of ethical dilemmas.

• Setting up a satisfactory responsibility system for easy fixation of responsibility on account of non-compliance of the ethical principles by the employees.

• Promotion of ethical behaviour by the bank managers by religiously following it, thereby setting and leading as role models in the society.

2.8.1 SIGNIFICANCE OF CODE OF ETHICS:

The management’s role is vital in the implementation of the code of ethics and it must be made known to the employees that no unethical conduct will be accepted and there will be zero tolerance. Creation of ethical committee is also essential for the successful implementation and periodic review of the code (Mathias, 1994). Code of Ethics is vital as:

• It communicates the laws, policies and procedures that govern every action of every employee at the bank, reducing the risk of costly litigation and corporate image damage. It informs the bankers about what is and is not acceptable professional behaviour and what is expected of all the bank employees.

• It provides the legal policies that affect all the employees and it also emphasizes the ethical responsibilities of each individual employee to the bank.

In a nutshell, the crucial objectives of the code can be summarised as under:

• Supporting and upholding good and fair banking practices by setting minimum standards while doing business;
• Augment transparency so that the customers have clarity about the banking products and services;
• Persuade market forces, through competition, to achieve higher operating standards;
• Encourage in setting up a healthy and affable relationship between the bank and its varied stakeholders;
• Foster confidence in the banking system.

2.8.2 BANKING CODES AND STANDARDS BOARD OF INDIA:

Banking Codes and Standards Board of India (BCSBI) was an initiation by the Reserve Bank of India to fill up the institutional gap that was identified in assessing the ethical performance of the banks in context to the standards based on established best practices in the concerned industry. Later on, Fair Practices Code for Lenders was developed by RBI in order to safeguard and protect the interest of the borrowers. Thereby in the year February 2006, BCSBI was registered as a society under the Societies Registration Act, 1860. The Board functions as an autonomous body with voluntary membership which was initially open only to the scheduled banks and lately extended to include Regional Rural Banks and select Urban Co-operative Banks.

GENERAL CODE OF CONDUCT FOLLOWED BY INDIAN COMMERCIAL BANKS GIVEN BY BCSBI:

A) KEY COMMITMENTS OF THE BANK TO ITS CUSTOMERS:
• Fair dealings with the customers,
• Rendering minimum banking facilities of receipt and payment of cash/cheques at the bank’s counter,
• Compliance with the Code regarding banking practices and products/services offered,
• Ensuring that the products/services conform the relevant banking laws,
• Making sure that the bank follows the key ethical principles of transparency and integrity while dealing with its customers,
• Operating secure and reliable banking and payment systems,
• Familiarizing the information about the bank products/services in any one or more of the following languages – Hindi, English or the appropriate local language,
• Making certain that the advertisement is understandable and does not convey misleading information to the customers,
• Unambiguous information about their products and services, interest charges, fines, terms and conditions should be distinctly provided,
• Regularly updating the customers about their bank account(s), and
• Intimating them about the changes in the interest rates, charges or terms and conditions.

B) DISPLAYING IN THE BANK BRANCHES, FOR THE CUSTOMERS INFORMATION:
• The different services provided,
• The required minimum balance that is needed to be maintained in the Savings Bank accounts,
• No Frills accounts and charges for non-maintenance thereof,
• Official’s name at the branch who handles customers grievances,
• Name and address of the Zonal/ Regional Manager whom can be approached if the customers’ grievance is not redressed at the branch,
- Banking Ombudsman’s details under whose jurisdiction the branch falls, and
- Information available in booklet form.

DISPLAYING ON THE BANK’S WEBSITE AND POLICIES ON:

- The method of cheque collection,
- Customers’ Grievance Redressal,
- Compensation,
- Collection of Dues and Security Repossession,
- Prompt rectification of mistakes and cancelling any bank charges that the bank apply due to their mistake,
- Quick handling of complaints,
- Guiding the unsatisfied customers in the further process of carrying forward the complaint,
- Assisting substitute way to ease the difficulties arising out of technological failures,
- Careful handling of the confidential personal information of the customers,
- Making the code available either hardcopy or softcopy at every branch and on the bank’s website,
- Providing a copy of the code to the new customer,
- Training of the bank’s staff so that they are well equipped with the code and duly comply while discharging their duty,
- Implementing a non-discriminating policy i.e. the banks will not discriminate on the basis of age, race, gender, marital status, religion or disability.
C) ADVERTISING, MARKETING AND SALES:

- Ensuring that all advertising and promotional material is understandable and not deceptive,
- In any advertising in any media and promotional literature that draws attention to a banking service or product and includes a reference to an interest rate, bank will also indicate whether other fees and charges will apply and that full details of the relevant terms and conditions are available on request,
- If the bank has outsourced or have availed the services of the third parties then it is expected that the latter also maintains the customers information confidentially,
- Informing the customers about the various features of the bank products availed by the customers. However, updates about other products/services will be communicated to the customers only after they have given their consent to the same either via mail, or on phone banking/customer service number,
- The Direct Selling Agencies (DSAs) will have to strictly adhere to the provisions of the code and properly disclose their identity to the customers on account of selling bank products personally or through phone, and
- The banks are expected to take necessary actions against their representative/courier or agent, if the customer files a complaint regarding improper conduct or violation of the Code.
D) PRIVACY AND CONFIDENTIALITY:

- The bank will maintain full secrecy and confidentiality of the customers’ account, even when the customers are no longer a customer, and strictly comply with the bank’s policies. However, there are few exceptional cases:
  i. If the law demands,
  ii. If revealing of such information is helpful to the public,
  iii. If disclosing of information helps in preventing fraud,
  iv. If the customer request the bank to make known the information and gives the same in writing, and
  v. If the customer request the bank to give a banker’s reference although the bank will seek a written permission in prior they disclose.

E) COLLECTION OF DUES:

- The customer must be made familiar with the terms and conditions relating to the loan repayment process, failure of which will attract a definite course of action for the loan recovery. Firstly the customer will be send reminders through notice or even personal visits or repossession of security, if any. The collection policy is built on courtesy, fair treatment and persuasion,
  - Posting of the details on the bank’s website and also at their branches regarding the recovery agency firms/companies,
  - The bank’s representative must clearly identify themselves before the customers and also show the bank’s authority letter and if requested by the customer must also display their identity card,
• Information regarding the dues will be made available by the bank to the customer and will try to give sufficient notice for payment of dues,

• In order to avoid causing harassment to the customers, an efficient system of checks must be present before transferring on a default case to collection agencies, and

• Intimation to the customers by the bank before initiating the recovery proceedings against him/her.

F) GUIDELINES OF THE AUTHORISED PERSON TO REPRESENT THE BANK IN COLLECTION OR/AND SECURITY REPOSSESSION:

• For contacting the customer ordinarily it is at the place of his/her choice and in absence of any precise place, it is usually at the customer’s residence or at the place of business/occupation,

• The representative’s identity and authority will be informed to the customer,

• Respect must be given to the customer’s privacy,

• The customer will be interacted in a decent and in civil manner,

• Honouring of customer’s request not to make calls at a specified time or at a particular place,

• Documentation of the time, number of calls as well as the contents of conversation,

• Resolving disputes relating to dues in a mutually acceptable way, and

• Maintaining of decency and decorum while making visits to the customer’s place for collection of dues.
G) COMPLAINTS, GRIEVANCES AND FEEDBACK:

INTERNAL PROCEDURES:

- Assistance will be provided to the customer regarding filing of complaint,

- Providing an acknowledgement or a response within a week, if complaint is made in writing,

- Providing of complaint reference number if the complaint is made over phone at the bank’s designated telephone helpdesk or customer service number,

- Updating the customer regarding the progress within a reasonable period of time,

- If the bank requires more time to respond, then must specify the reason for it and shall try to provide the response within 30 days of filing of the complaint,

- Will assist the unsatisfied customer if help is needed to take the complaint further, and

- The time of response and action of the bank will depend upon the nature and seriousness of the complaint lodged.

2.8.3 ETHICAL POLICY FOLLOWED BY THE BANKING SECTOR:

Very few customers consciously think about how their money is used once it is deposited in a bank, about the security of their deposits and the interest they get on their investment. However, there is a growing concern about the way large banks have been implicated, not only in the third world debt crisis but also in environmental degradation, animal cruelty, the arms trade, child labour, tobacco production, unfair trade and other matters related to social justice. Making funds available to such business will encourage unethical activities in manifold. However, Hill and Jain (2010) were of the view that engaging child labour in a developing or under-developed nations may not be against the law but still it is immoral because this
practice conflicts with the widely held views relating to ethics. Likewise, there are no laws regarding to pollution in a developed nations but still it would be considered unethical to release the toxic pollutants into the water or air.

It is again a matter of great concern that the banks understand their responsibility before disbursing the funds for unethical activities. Globally, the banks usually do not support and invest in:

- Business identified for violating the human rights, viz; engaging child labour etc.
- Business engaged in such activities that have an adverse effect in the ecology whereby damaging the environment. For instance, releasing of toxic chemicals into the sea or river, polluting the air by excessive emission beyond the permissible limit,
- Business involved in blood sports, trade in the furs of endangered species and other animals,
- Manufacture or transfer of arms and weapons to oppressive regimes,
- Manufacture of torture equipment or other equipment that is used in the violation of human rights,
- Business involved in manufacturing health hazard products viz; tobacco product.

Perhaps it found that in case of Indian banks; generally due importance is given only on the validity of documents supporting good financial health of the organisation. The banks hardly verify or rarely physical visits are made to check whether the organisation is employing child labours or releasing poisonous effluents or violating human rights norms before disbursing the loan amount.
2.9 ASSOCIATIONS/ ACTS FOR CONTROLLING BANKING ACTIVITIES:

The legal framework for banking in India is provided by a set of enactments, viz., the Banking Regulations Act (1949), the Reserve Bank of India Act (1934) and the Foreign Exchange Management Act (1999). Broadly, no entity can function as a bank in India without obtaining a license from Reserve Bank of India (RBI) under Banking Regulations Act, 1949. Besides these, banking activity is also influenced by various enactments governing trade and commerce, such as, Indian Contract Act (1872), the Negotiable Instruments Act (1881), Indian Evidence Act (1872) etc.

All over the world, there is a general perception that the customers need to be empowered. Despite the existence of a plethora of laws, rules, regulations and institutional grievance redressal mechanism meant for customer protection, the customers continue to be vulnerable in their dealings. This vulnerability is also seen in the financial world and more specifically in the banking industry. The advancements in technology, financial engineering and innovative products have enhanced the customers choices, the lack of transparency and aggressive marketing have resulted in value erosion causing concern for the Reserve Bank India and also for the Government.

The last decade has witnessed many positive developments in the Indian banking sector. The policy makers, which comprise of the RBI, Ministry of Finance and financial sector regulatory entities, have made several notable efforts to strengthen the ethical banking practices through regulation in the sector.

2.9.1 RESERVE BANK OF INDIA:

The Banking Regulation Act, 1949, empowers the sole responsibility of regulation and supervision of banks on the trusted shoulder of Reserve Bank of India.
Section 35 of the Banking Regulation Act entrust the power upon the RBI to make an inspection of the books of any banking company at any time. Till December 1993, the Department of Banking Operations and Development (DBOD) carried the regulatory and supervisory functions of RBI. Thereafter, a separate wing came into existence under the name of ‘Department of Supervision’ (DOS) which had taken over the supervisory function, leaving regulatory functions to DBOD. Later in November 1994, RBI formed the Board for Financial Supervision (BFS) under RBI (BFS) Regulations 1994 to give exclusive attention to the prudential supervision and regulation of banks, financial institutions and non-bank financial institutions in an integrated manner. DOS was again split into Department of Banking Supervision (DBS) and Department of Non-Banking Supervision (DNBS). DBS is accountable for the supervision of commercial banks and their merchant banking subsidiaries. Both regulation and supervision of the development financial institutions (DFI’s) are handled by the Financial Institutions Division (FID) of the DBS.

RBI is entrusted with powers to issue guidelines on any issue relating to sound functioning of banks. It has issued several mandatory guidelines on different aspects, viz; liquidity maintenance, capital adequacy, income recognition, asset classification and provisioning, connected lending and prudential norms on large exposures. RBI is also vested with the powers to ensure that the provisions are duly complied as non-compliance with the mandatory guidelines can invite monetary and / or non-monetary penalties.

The Bank’s enduring and abiding concern for the quality of services of banks goes back to the 1970’s when the R. K. Talwar Committee was appointed in 1975, followed by the M. N. Goiporia Committee in 1990, the Committee on Procedures and Performance Audit of Public Services (2003) and recently the Committee on
Customer Service under the chairmanship of M. Damodaran (2010). Thus, RBI has responded proactively to the concerns relating to decline in the ethical values of the banks and has been actively engaged in review, examination and evaluation of customer services in the banks. It has been reviewing the progress in the implementation of various recommendations of the committees on customer service and has been continuously pushing the banks to be more customer centric and customer friendly in their conduct and banking practices.

The RBI equips its officers with latest techniques of supervision through ongoing training programmes organised at its own staff colleges viz. Reserve Bank Staff College (Chennai); College of Agricultural Banking (Pune); Bankers Training College (Mumbai); and Institute for Development and Research of Banking Technology (Hyderabad). Besides, the RBI encourages and regularly deputes its officers to training programmes, seminars and conferences conducted by the international bodies, Central Banks of other countries and international organisations like Bank for International Settlements and the International Financial Institutions to understand and equip itself with contemporary global issues.

2.9.2 INDIAN BANKING ASSOCIATION:

Indian Banks' Association (IBA), formed on 26th September, 1946 as a representative body of management of banking in India operating in India. Initially there were 22 member banks in India which currently represents 173 banking companies operating in India comprising of public sector banks, private sector banks, foreign banks having offices in India, urban co-operative banks, developmental financial institutions, federations, merchant banks, mutual funds, housing finance corporations, etc. IBA was formed for the development, coordination and
strengthening of Indian banking system and assist the member banks in various ways including implementation of new systems as well as adoption of standards among the members.

The key functions of IBA are:

- Promoting sound banking principles,
- Rendering assistance and providing the basic services to the member banks,
- Organising co-ordination and co-operation on procedural, legal, technical, administrative and professional matters,
- Collecting, classifying and circulating statistical and other information,
- Pooling of talents towards common purposes such as reduction in costs, increase in efficiency, productivity and improve systems, procedures and banking practices,
- Projecting good public image of banking through publicity and public relations, and
- Encouraging sports and cultural activities among bank employees.

**GROUND RULES AND CODE OF ETHICS OF IBA:**

Way back in 1977 IBA introduced Ground Rules and Code of Ethics (GRACE), in order to bring about a standard of ethical behaviour among the member banks in certain crucial areas of interest to the banking public. It also served as a tool defining the boundaries for interpretation of the directives of the Regulatory Authority in key areas. As the structure of GRACE was formulated to meet the requirements of a regulated environment and subsequently that the environment had undergone tremendous change due to liberalisation and financial sector reforms, need had arisen for comprehensively revising the GRACE. Accordingly, the needful changes were made and RBI recommended that the IBA Code for Banking Practice is in order for
uniform adoption by the member banks. The IBA Code for Banking Practice thus developed, is an effort towards gratifying the above need under the liberalised and deregulated environment, aspiring to support a healthy relationship between the banks and thereby encouraging the practice of ethics.

**STATUS OF THE IBA CODE FOR BANKING PRACTICE:**

The Code for Banking Practice is issued by the Indian Banks' Association in conformity of the Reserve Bank of India is a non-statutory Code issued on a voluntary basis. It calls for the compliance of the provisions by the member banks while dealing with their customers and shall be monitored by a committee administered by the association. It covers specifically banking services such as current accounts, savings and other deposit accounts, advances (loans and overdrafts). However, principles of the Code will apply to overall relationship between the member banks themselves and their customers. The recommendations set out in the Code are supplementary to and do not replace any relevant legislation, codes, guidelines or rules applicable to member banks under the Banking Regulation Act, 1949, the Reserve Bank of India Act, 1934, the Negotiable Instruments Act, 1881, the Banking Companies Acquisition and Transfer of Undertakings Act, 1970 and 1980 or any other law in force in India governing the Banking Law and Practice. The Code became effective from 1st September, 1999 and is subjected to review from time to time; at least once in every three years.

The Code is intended to:-

a) Setting up minimum standards which requires the compliance of the member banks, thereby promoting good banking practices;

b) Fostering customer confidence in the banking system; and
c) Introducing self-discipline amongst the member banks for promoting healthy competition and ethical practices in respect of banking services.

The banking practices code framed by the IBA is briefly mentioned below:

- **OBSERVANCE:** Agreeing to obey the ground rules by the member banks.

- **PRIZES AND GIFTS:** Member Banks shall not give prizes, gifts, donations, etc., or any direct or indirect benefits in the purchase price or in respect of any other transactions relating to securities, bonds, etc., as consideration or with a view to getting or retaining a deposit and/or advance account. Promotional schemes duly approved by the Boards of respective banks may, however, be launched within the regulatory framework of the Reserve Bank of India. However, it may be customary to distribute gifts (cost of such gift article should not exceed Rs.250/- per piece) at the time of Diwali or New Year to the valued customers. Bank's policy in this regard must be approved by the Board.

- **ASSOCIATION WITH CHIT FUNDS/SPECULATIVE VENTURES:** Associating with chit fund companies, which conduct lottery, gift schemes, etc., or any other speculative ventures is prohibited to the member banks and they will neither encourage nor lend their names to be used for promoting speculative ventures of any nature. However, the bank can open any type of account in the name of such companies in the banks' normal course of business.

- **DEPOSIT RECEIPTS:** When Member Banks issue deposit receipts against cheques/drafts/pay-orders drawn on local banks, the banks may pay interest on such deposits from the date on which the relative instrument gets credited/adjusted in the bank's account at the clearing house (RBI, SBI, etc.).
• SAVINGS BANK ACCOUNT: Member Banks shall abide by the code and hence will not open savings accounts of those institutions which have been listed out in the Annexure to this Code and also as amended from time to time.

• INTRODUCTION OF ACCOUNTS: Proper introduction is to be made while opening savings, current or term deposits.

• PRINTING OF CUSTOMER'S LOGO, ETC., ON CHEQUE LEAVES: Printing of any logo, advertisement, etc. on the cheque leaves is restricted not only to the member banks but also to the customers. Yet, this prohibition is not restricted to dividend/interest warrants or refund orders in view of their limited circulation.

• COLLECTION OF TERM DEPOSIT RECEIPT ON MATURITY: The Term Deposit Receipt (TDR) received for collection from another bank shall not be renewed by the TDR issuing bank and delivered to the customer directly. The TDR issuing bank shall either pay to the collecting bank or else, the instrument shall be returned, if the issuing bank has any valid reasons not to pay.

• RENEWAL OF OVERDUE DOMESTIC TERM DEPOSIT: Renewal of overdue domestic term deposit (from maturity date of overdue deposit) shall be for a period extending up to at least 15 days beyond the actual date of renewal. If the renewed overdue domestic deposit is tendered for premature foreclosure/encashment before completion of minimum 15 days from the actual date of the renewal, no interest will be paid for the overdue period even if the total overdue period from the date of maturity of the old deposit receipt exceeds 15 days.
• **PAYMENT OF INTEREST ON TERM DEPOSIT MATURING ON HOLIDAYS:** On account of due date of a term deposit falling on a holiday, Sunday, non-business working day, interest will be paid for such intervening day(s), at the originally contracted rate, till the succeeding working day.

• **MATURITY VALUE CERTIFICATE (MVC):** Member Banks shall not issue Maturity Value Certificates (MVCs) under any circumstances to any people who approach bank branches with offer to procure substantial rupee deposits.

• **NEGATIVE PUBLICITY:** Negative publicity to ebb the reputation of other banks is not allowed to be practiced by the member banks.

• **INTEREST PAYMENT:** Clear specifications are required to be made in the advertisement in context of rate of interest, method of calculating interest etc. Compliance of the master chart prepared by the association regarding the payment of interest on deposit is an essential for the member banks.

• **GENERAL CONVENTIONS FOR DOMESTIC DEPOSITS:** Prohibition to the member banks regarding accepting any deposits beyond 10 years with an exception that an order has been received from the competent courts or incase of minors where the banks are convinced that it will be in the interest of the minors.

• **TERMS OF ACCEPTANCE OF DEPOSITS:** Incomplete term deposit receipt not clearly mentioning the actual deposited amount, period of deposit and the rate of interest payable will not be issued by the member banks. The bank shall also specify the maturity value and the periodical rest at which the interest shall be compounded incase of reinvestment plan deposit, recurring deposit and cash certificate.
• OVERDRAFT IN SAVINGS BANK ACCOUNT: No overdraft limit on a regular basis is permitted in saving bank account.

• MONITORING: For ensuring compliance of the code the association constitutes a committee which is authorized to investigate and follow up the cases of violation of the code made by the member banks. The member banks will appoint a designated officer who will be a liaison between the bank concerned and the committee. The suggestions given by the committee on any matter relating to the violation of the code will be given an immediate effect by the member banks.

2.9.3 BANKING REGULATION ACT, 1949:

The Indian Banking Sector was controlled by the Companies Act 1956 and there was absence of exclusive Act till 1949. The Central Banking Enquiry Committee recommended the need for a separate legislation to control banks due to mushroom growth of banks with inadequate capital, dishonest management, speculative business etc.

The following are the significant provisions under Banking Regulation Act, 1949 regarding control and regulation of banking sector in India.

• Power to call for and publish the information. Preparation of Accounts and Balance Sheets, audit of the Balance sheet and Profit & Loss Account, publication of audited Accounts and Balance Sheet, inspection of books and accounts of banking companies by RBI, giving directions to banking companies.

• Appointment of the managing directors requires a prior approval from the RBI.
- Removal of managerial and any other persons from office.
- RBI is entrusted with the power to appoint additional directors.
- Moratorium under the orders of a High Court.
- Winding up of banking companies.
- Scheme of amalgamation to be sanctioned by the RBI.
- Central Government for an order of mortal rim in respect of a banking company and for a scheme of reconstruction or amalgamation.
- Power of RBI to examine the record of proceedings and tender advice in winding up proceedings.
- Power of RBI to inspect and make its report to winding up.
- Power of RBI to call for Returns and information from the Liquidator of a Banking company.
- Issue of No Objection Certificate for change of name.
- Issue of No objection certificate for the Alteration of memorandum of a banking company. Central Government to consult the RBI for making rules regarding banking companies. Recommend to the Central Government for exempting any bank from the provisions of the Banking Regulation Act 1949.

2.9.4 BANKING OMBUDSMAN SCHEME, 1995:

The Banking Ombudsman Scheme (BOS) was introduced on 14th June 1995 under Section 35 A of the Banking Regulation Act, 1949 by RBI with a view to provide expeditious and inexpensive resolution of customer complaints on deficiencies in banking services. The scheme has been altered since its inception due to high demands and expectations of the customers and introduction of wide range of banking products and services. The scope further widened in February 2009 with the
inclusion of deficiencies cropping up out of internet banking. A customer can now file a complaint if a bank fails to observe the provisions of the Fair Practices Code for lenders or the Code of Bank’s Commitment to customers issued by the Banking Codes and Standards Board of India, and also if the customer is not satisfied with the response given the concerned bank or if no response is given within the stipulated period of time.

Malyadri and Sirisha (2012) highlighted that in spite of RBI’s recommendations and guidance the number of complaints against the banks has been on rise relating to deficiency of services. Although the complaints received in the office of the Banking Ombudsman have been on rise yet, there is a lack of general awareness amongst the customers. RBI is required to ensure that the awards given by the ombudsman are implemented by the banks in order to instill confidence amongst the customers.

While providing banking service, it is possible that the banks may not be able to fulfill its customer’s expectations leading to dissatisfaction and complaints. If the customer is not satisfied with the resolution given by the concerned bank or if the response is not intimidated within a stipulated period of time, then the customer can approach the office of Banking Ombudsman under whose area the branch falls for resolution of the complaint through the banking mediation process.

NEW GROUNDS OF COMPLAINTS: TO SERVE A WIDER SPECTRUM OF CUSTOMERS:

- Unreasonable delay in payment or collection of cheques etc.,
- Non-acceptance of small denomination notes and coins; charging commission for the service,
- Failure to offer or delay in providing a banking facility (other than loans) promised by a bank or its DSAs,
- Refusal to issue or delay in issuing, or failure to service or delay in servicing or redemption of Govt. securities,
- Failure to comply with the instruction laid down by the RBI regarding ATM, debit/credit card operations,
- Delaying in the process of disbursement of pension,
- Refusing to pay or delaying in the process to make tax payment as required by the government or RBI,
- Non-compliance of fair practice code as adopted by the bank, and
- Denial to close or holding up in closing of accounts.

CASES EXCLUDED:
- FRAUD AND FORGERY: Complaints arising out of frauds and forgery cases (Supreme Court’s observation that it would not be appropriate for BO’s to give a finding on forgery or to form an opinion on cases already referred to courts)
- ARBITRATION: Inter-bank disputes and disputes between a bank and its constituent where both parties voluntarily approach the BO for arbitration. This provision has been removed from the earlier scheme.

NATURE OF COMPLAINTS:

i. CREDIT CARDS:
- Raising of debit voucher (claim) after surrender/closure of credit card
- Threatening call/physical harassment for fictitious claims
• Non-furnishing of statement of accounts against credit card
• Sanctioning of credit card without consent and sending the same to beneficiary and subsequent demand of charges against the same
• Non-effecting of transfer of balance to another bank’s credit card account
• Amount deposited in a credit card, not reflected in the statement of accounts

ii. CAR LOANS:
• Non-refund of excess payment
• Non-settlement of dues and forceful recovery of loan
• Forceful seizure of car, demanding of repossession charge, charging of pre-closure/pre-payment charge
• Non-submission of statement of accounts

iii. HOME LOANS:
• Non-release of loan even after a sanction letter is issued although processing charges realised and documentation made
• Non-furnishing of statement of accounts

iv. PERSONAL LOAN AND CONSUMER LOAN:
• Sanction of loan without application and consent
• Exorbitant rate of interest charged
• Non-allowing of pre-payment of loan
• Non-return of EMI cheques against unavailed loan
• Delay in disbursement of loan
2.9.5 DISPUTE REDRESSAL FORUMS:

The Indian banks now have an added responsibility towards their customers under Consumer Protection Act, 1986 which became effective from 15th April 1987. Under the Act three consumer dispute agencies have been constituted, viz; Consumer Disputes Redressal Forum i.e. the District Forums, a Consumer Dispute Redressal Commission known as State Commissions and National Consumer Disputes Redressal Commission which adjudicate upon the complaints of the consumers relating to defaults in products and deficiency in service. ‘Service’ as defined in the Act includes the provision of facilities in connection with banking.

a) District Forum- It operates at the district level and deals with consumer complaints pertaining to the value of goods or services and compensation not exceeding Rs. 20 lakhs.

b) State Commission- It operates at the state level and deals with complaints of the value exceeding Rs. 20 lakhs but not exceeding Rs. 1 crore. It also hears appeals against the orders of the District Forum.

c) National Commission- It functions at the national level for the complaints of the value exceeding Rs. 1 crore and hears appeals against the orders of the State Commission.

The liability of the banker in relation to the services rendered to the customer arises under the Act if the following conditions are satisfied:

i) The service is not free of charge and for which a consideration has been made.

ii) An injury or loss was caused to the customer because of deficiency of services provided to him/her.

iii) The loss had taken place due to the negligence of the banker.
The principles laid down by the various decisions of the Consumer Commissions and the Supreme Court and included in the compilation can be summarized as under:

- **FAILURE OR DELAY IN REPAYING DEPOSITS:** Deficiency of service arises on account of withholding or delaying the due amount on a fixed deposit even after its maturity.

- **PAYMENT AND COLLECTION OF CHEQUES OR DRAFTS:** Deficiency of service also takes place if the cheque or draft is wrongfully dishonoured by the banker.

- **LOANS AND ADVANCES:**
  
  i. **REFUSAL TO GRANT LOANS:** The banks are empowered to refuse or grant loans but however, causing unjustified delay in releasing the installment amounts of the sanctioned loan accounts for deficiency in service.

  ii. **INTEREST:** The rate of interest charged by the banks shall be as per the prescribed rate given by the RBI which needs to be informed to the customers and charging more rate than the one which is specified accounts for deficiency of services. However, interest cannot be claimed in a consumer case under section 34 of the Code of Civil Procedure as these provisions are not applicable. Based on the underlying principles of justice, equity and good conscience, the Forums and Commissions can grant appropriate interest in each case.

  iii. **SECURITY FOR LOANS:**

  a) **NON-RETURN OF DOCUMENTS:** Banks are required to return back the security documents after the full repayment of the loan amount, failure to discharge this duty will constitute deficiency of services.
b) **INSURANCE OF SECURITY:** Banks are not bound to insure the security taken for a loan unless the loan agreement provides for insurance and as such, failure to insure does not amount to deficiency in service.

- **LIEN:** Section 171 of the Indian Contract Act empowers the banks to exercise lien against the outstanding dues from the customers, yet banks are forbidden to exercise lien over the personal account of a customer on the ground that money was due to the bank in another account where he acts in a different capacity, if there is no agreement to that effect.

- **BANK GUARANTEE:** Banks are required to honour guarantee undertaken by it, yet, if the demand was made not in accordance of the original conditions of the guarantee and the guarantee was dishonoured then it will not account for deficiency of services.

- **LOCKER:** A bank has the responsibility of taking safe care of the locker and if any articles are lost then it will be the banker who will be liable. Though in few cases the disputes were left open to be decided by the Civil Court after taking detailed and substantial evidence.

- **SECURITY IN BANK’S PREMISES:** It is the bank’s duty to provide security within its premises and will account for deficiency of services if the customers suffer a loss owing to lack of security measures installed by the bank.

- **CONSUMER FORUM - JURISDICTION AND PROCEDURE:** A consumer complaint may not be entertained by the Consumer Forums when the matter is sub-judice before a competent Civil Court. A person, who acts as surety for another and does not hire/avail service from the bank, is not a consumer of the bank and therefore, his complaint may not be entertained.
• **VOLUMINOUS EVIDENCE- COMPLICATED QUESTIONS OF LAW AND FACT:** In cases involving complex questions of facts and interpretation of laws, rights and obligations of parties under various statutes, the complainants have to seek redressal of their grievances before Civil Courts not the Consumer Forum. Similar is the case when elaborate evidence is required to be taken.

• **LIMITATION:** A bank may exercise lien under section 171 of Contract Act even where the debt is barred by limitation. A consumer can initiate proceeding against a banker for non-release of securities even after the expiry of the period of limitation.

• **OTHER BANKING SERVICES:**
  i. **OPERATION OF ACCOUNT:** Deficiency of services will not take place on account of stoppage of operation of account of a partnership firm due to an arbitration award and the subsequent legal opinions obtained by the bank.
  ii. **CLOSING OF ACCOUNT:** Deficiency of services arises if the bank closes the account without the instructions from the account holder.
  iii. **REFUSAL OF CHEQUE BOOK:** Deficiency of services does not account for if the banker denies providing the cheque book facility to the customers on account of not maintain minimum account balance.
  iv. **SERVICE CHARGES:** The Consumer Protection Act does not cover the provision relating to increase in the service charges levied by the banks as long as it is within RBI’s direction. This cannot be termed ‘unilateral’ and taking the consent of each customer is not required.
  v. **RENDERING OF ACCOUNT:** The scope of the Consumer Protection Act does not include demand for rendering of accounts for transactions with a bank.
vi. **SUCCESSION CERTIFICATE:** Claiming a succession certificate from the children of a deceased account holder before releasing the amount does not account for deficiency of service as it is per the Succession Act and the Reserve Bank guidelines.

vii. **INSISTENCE ON DENOMINATION OF NOTES:** If the bank fails to comply with the customer’s demand to provide currency notes of particular denominations then it will not account for deficiency of services.

viii. **FORGERY OF POWER OF ATTORNEY:** The bank does not make any further verification of signature if a registered power of attorney is produced before the bank. As such the bank cannot be held responsible for negligence in verification of signatures as he is not required to do the same.

ix. **COMPLIANCE OF RBI DIRECTIONS:** The Consumer Forum may not instruct the banks to make payment to a depositor differing to the directions issued by RBI under section 35A of the Banking Regulation Act or allow the directions issued by RBI to be disobeyed.

x. **VICARIOUS LIABILITY:** A bank is bound by the act of negligence of its staff during the course of employment.

xi. **RUDE BEHAVIOUR:** Deficiency of service also arises in case of rude behaviour of the banking staff and can be directed to pay compensation for the mental agony and discomfort caused to the concerned customer.

xii. **NOTICE BEFORE AUCTION:** Deficiency of service takes place on account for failure on the part of the bank to demand repayment of the outstanding amount or inform the customer beforehand regarding the auction date.

xiii. **NON-RETURN OF DISHONOURED CHEQUE:** The bank is required to return back the dishonoured cheque as it is an important evidence on the basis
of which the complainant can take necessary steps against the drawer, failure to return back will account to deficiency of service.

xiv. STRIKE: If the employees initiate an illegal strike and it results into suspension of banking business and no loss is caused due to the negligence of the bank then it will not account for deficiency of services.

2.9.6 INFORMATION TECHNOLOGY ACT, 2000:

The Information Technology Act 2000 (also known as ITA-2000, or the IT Act) is an Act of the Indian Parliament (No 21 of 2000) notified on 17th October 2000. The Information Technology Act 2000 has been substantially amended through the Information Technology (Amendment) Act 2008 which was passed by the two houses of the Indian Parliament on December 2008.

Information Technology Act 2000 addressed the following issues:

i. Legal Recognition of Electronic Documents

ii. Legal Recognition of Digital Signatures

iii. Offenses and Contraventions

iv. Justice Dispensation Systems for Cybercrimes

IMPACT OF VARIOUS IMPORTANT PROVISIONS OF IT ACT, 2000 AND IT AMENDMENT ACT 2008 FOR BANKS AND CUSTOMERS:

There were only two sections in the IT Act, 2000 which primarily dealt with the computer related offence prior to the 2008 Amendment Act. It thereby provides stronger data protection measures as well as intensifying the general framework against the cyber crimes. There are few definite issues which are inbuilt in the IT related crimes, viz; (a) ambiguity in cyberspace; (b) the issue of jurisdiction; (c) the
question of evidence and (d) the issue of non-reporting of cyber crimes to authorities for the fear of bad publicity it can generate for businesses operating online.

Additionally there are certain concern areas relating to the banks and customers which are enlisted as under:

(I) INTERMEDIARY:

The definition of intermediary does not include banks directly yet the terminology is so wide that receiving payments on behalf of customers by receiving electronic message sent by other entities in this regard and transmitting electronic messages on behalf of their customers while making payments on their behalf which are normal activities carried on by banks may render them intermediaries. Further the definition also covers any person who provides any service with respect to such messages/records, in which case it is possible that banks may fall within the definition of the term ‘intermediary’. “‘Intermediary’ with respect to any particular electronic records, means any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers, internet service providers, webhosting service providers, search engines, online payment sites, online-auction sites, online-market places and cyber cafes.”

The position of the banks did not change irrespective of the changes made in the amendment. Thus, banks are not covered by the words, “and includes telecom service providers, network service providers, internet service providers, webhosting service providers, search engines, online payment sites, online-auction sites, online-market places and cyber cafes”, added by the amendments.

The position however cannot be regarded as free from doubts. IT Act, 2000 places some responsibilities on intermediaries, which may not be relevant or
applicable to banks. To make banks governed by all the provisions applicable to intermediaries would result in unintentional consequences and may even expose banks to penal action under IT Act, 2000.

(II) ENCRYPTION:

Encrypting data before transferring it over the internet will go a long way in safeguarding against such interception or misuse of data. Even though the data may be intercepted it would be of no use unless it is decrypted. The customers’ privacy will be protected if the online service providers adopt encryption of data. Yet, lately there is no uniformity regarding the data encryption standards enforced on varied classes of online service providers. The level of encryption for individuals, groups or organisation has been restricted by the ISP license to a key length of only 40 bits in symmetric key algorithms or equivalents. RBI has fixed SSL / 128 bit encryption as minimum level of security. SEBI has set 64/128 bit encryption for Internet Based Trading and Services. These encryption standards do not seem to be of international standards. Information Technology (Certifying Authorities) Rules, 2000 requires ‘internationally proven encryption techniques’ to be used for storing passwords. An Encryption Committee constituted by the Central Government under Section 84A of the IT Act, 2000 is in the process of formulating Rules with respect to encryption. A minimum and reasonable level of encryption may be suggested for the banking sector.

(III) DATA PROTECTION:

The facets of compensation for failure in protecting the data are dealt by the Section 43A of IT Act. Since the central government has not prescribed the terms ‘sensitive personal data,’ and “standard and reasonable security practice”, the data is provided security only on the basis of the agreement between the parties or as given
by the law. There is lack of clarity as given in the explanation (ii) to section 43A regarding whether the banks will be able to enter into an agreement which specifies lesser standards than the ones stipulated by the central government and in the event of disagreement which would prevail. In order to provide protection to both the banks and the customers a balance is required to be strike so that none of them suffers due to no fault of theirs. The IT Act 2000 under section 72 and 72A further sets down civil and criminal liabilities against any person who without seeking the owner’s permission copies, downloads or causes damages to the computer database etc. the person may be conferred punishment with imprisonment up to two years with fine up to one lakh or with both.

(IV) COMPUTER RELATED OFFENCES AND PENALTY/PUNISHMENT

The IT Act, 2000 as amended, prescribes the banks to civil and criminal liability. The civil liability would account for compensation up to Rs. 5 crore under the amended Information Technology Act before the Adjudicating Officer and beyond Rs.5 crore in a court of competent jurisdiction. The top management will be criminally held liable by imposing an imprisonment for a term from three years to life imprisonment including fine, as specified under chapter XI of the said Act. However the government can be notified if the current provisions do not consider the offences which are created due to the advancement in technology and information system. ‘Phishing’ has been a most important threat encountered by the online bank customers lately. Though section 66D covers the offence of phishing yet the attempt to commit the act of phishing is not made punishable. It is suggested that there is a call for providing punishment for attempt to phish and also to discourage persons from attempting it.
(V) BANKS TO BE LICENSED AS CERTIFYING AUTHORITY

The banks must be permitted to apply for a license to issue digital signature certificate under Section 21 of the Information Technology Act, 2000 based on the recommendation of the Working Group on internet banking and function as certifying authority for facilitating internet banking and that Reserve Bank of India may recommend to Central Government for notifying the business of certifying authority as an approved activity under clause (o) of Section 6(1) of the Banking Regulations Act, 1949. It is for consideration whether banks are to be licensed to issue ‘digital/electronic signature certificates’ under Section 21 of IT Act, 2000.

(VI) PROVISION FOR ONLINE NOMINATION FACILITY

The Banking Companies (Nomination) Rules, 1985 specifies that a physical copy of the nomination forms is required to be submitted by the customer and additionally requires the signature of two witnesses. In order to simplify the process the requisite modification of the Nomination Rules must be made so that the work can be completed without the customer physically walking into a branch. Nomination which takes effect after the death of the person is on par with a will. Attestation of nomination by witnesses is actually meant for facilitating proof of nomination in the event of dispute. The challenge appears to be to find a robust technological solution for proving that the nomination made on line is a genuine nomination, voluntarily made by the party.
2.9.7 THE PREVENTION OF MONEY-LAUNDERING ACT 2002:

An Act to prevent money-laundering and to provide for confiscation of property derived from, or involved in, money-laundering and for matters connected therewith or incidental thereto.

(1) This Act may be called the Prevention of Money-laundering Act, 2002.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

- OFFENCE OF MONEY-LAUNDERING:

Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of money laundering.

PUNISHMENT FOR MONEY-LAUNDERING:

The person who commits the crime of money-laundering shall be punishable with an imprisonment for a term from three years till seven years and also with a fine amounting to Rs. 5 lakhs, provided that the crime is related to the offence as stated under paragraph 2 of Part A of the Schedule.
OBLIGATIONS OF BANKING COMPANIES, FINANCIAL INSTITUTIONS AND INTERMEDIARIES:

(i) BANKING COMPANIES, FINANCIAL INSTITUTIONS AND INTERMEDIARIES TO MAINTAIN RECORDS:

Every banking company, financial institution and intermediary shall—

(a) Maintaining in details about the nature and value of all the transactions, clear specifications has to be given regarding whether the transactions are single or a series of transactions and where such series of transactions take place within a month;

(b) Providing information of transactions referred to in clause (a) to the Director within such time as may be prescribed;

(c) Verifying the records and retaining the identity of the all its clients in a prescribed manner so that the principal officer of a banking company or financial institution or intermediary has reason to believe that a single transaction or series of transactions integrally connected to each other have been valued below the prescribed value so as to defeat the provisions of this section, such officer shall furnish information in respect of such transactions to the Director within the prescribed time.

(ii) POWERS OF DIRECTOR TO IMPOSE FINE:

(1) The Director may call for records u/s 12(1) either of his own motion or an application made by any authority or officer and may make such inquiry or cause such inquiry to be made, as he thinks desirable.
(2) If during the inquiry the director finds that a banking company, financial institution or an intermediary or any of its officers have made a default in complying with the provisions as specified u/s 12, then fine may be imposed on the concerned banking company or financial institution or intermediary which shall not be less than ten thousand rupees and may further extend to one lakh rupees for each failure.

(3) The Director shall forward a copy of the order passed under sub-section (2) to every banking company, financial institution or intermediary or person who is a party to the proceedings under that subsection.

- **NO CIVIL PROCEEDING AGAINST BANKING COMPANIES, FINANCIAL INSTITUTIONS, ETC., IN CERTAIN CASES:**

Save as otherwise provided in section 13, the banking companies, financial institutions, intermediaries and their officers shall not be liable to any civil proceedings against them for furnishing information under clause (b) of sub-section (1) of section 12.

- **PROCEDURE AND MANNER OF FURNISHING INFORMATION BY BANKING COMPANY, FINANCIAL INSTITUTION AND INTERMEDIARY:**

    The Central Government may, in consultation with the Reserve Bank of India, prescribe the procedure and the manner of maintaining and furnishing information under subsection (1) of section 12 for the purpose of implementing the provisions of this Act.
END NOTES:


REPORT:

1. The Prevention of Money-Laundering (Amendment Act) 2012: The Gazette of India, Extraordinary, Part II, Section 1, Published by Authority, New Delhi, 4th January 2013, Ministry of Law and Justice