APPENDIX A.

DRAFT SCHEME FOR THE LINKING OF INDIGENOUS BANKERS WITH
THE RESERVE BANK OF INDIA (ISSUED AFTER CONSIDERATION OF
THE REPLIES TO THE BANK’S PRELIMINARY PROPOSAL)

The replies are helpful and clear the ground in
several important respects, but at the same time the replies
from those who represent the indigenous banker appear to
indicate some misapprehension of the role which the Reserve
Bank as a central bank should play in the financial structure
of the country and we, therefore, consider it desirable to
set out at some length the basic principles on which we
frame our proposals.

2. The history of the world since the war has made it
abundantly clear that if a country is to be financially sound
and independent it must have a properly co-ordinated banking
system which will embrace all the important banking activi-
ties of the country and co-ordinate them in a well ordered
whole under the general supervision and control of its Central
Bank. The essential feature of such a co-ordinated system
is that the country should be covered by a net-work of banks
(whether joint-stock or private is immaterial for the present
purpose) organised and operating so as to command the confi-
dence of the people of the country so that they may provide
the necessary finance for carrying on the business of the
country from the deposits which they obtain from them. In
such a system it is only when additional finance is required
for trade and industry either during seasonal stringency or
in time of emergency that the Central Bank should be called
upon to supply the necessary funds. It is not the function
of a modern Central Bank to supply the normal necessities of
the market and thus compete with the commercial banking
institutions.

3. The Indian Legislature in the last ten years has
devoted a great deal of thought and trouble to the organisa-
tion of joint-stock banks so as more adequately to fit them
for this purpose. The Reserve Bank Act provided for the
inclusion of the more important of them in a schedule subject
to its control, and the amendment of the Indian Companies Act
effected last year set out in much greater detail than has
ever been attempted before the constitution and functions of
such banks.

4. Unfortunately, these joint-stock banks still only
cover a small portion of the field. In the smaller country
towns and in the villages they are still either non-existent or play a very minor role in comparison with the private indigenous banker, and it is, therefore, obvious that if India's banking system is to be complete, provision must be made for the inclusion of the latter.

5. It is dangerous to generalise about the indigenous banker but a certain amount of generalisation is necessary if the problem is to be viewed as a whole, and as a broad generalisation it may be said that though in the past to a considerable extent and in the present to a smaller extent such bankers do take deposits from the public, they depend to a very much greater extent for their capital either on their own resources or on loans from other indigenous bankers or the commercial joint-stock banks. What we wished to emphasize is that so long as this remains the case they cannot be considered as eligible for central banking facilities. The nature of their business is such that only the commercial banks with their accumulation of experience and machinery for detailed local investigations are competent to gauge their creditworthiness.

6. The conclusion to which the Reserve Bank had come and on which it based its letter was that direct relationships could only be extended to indigenous bankers if and when they confined their activities to banking proper by making their principal business the accepting of deposits and generally adopting modern banking methods. The Reserve Bank has no predilection, as has been alleged in some quarters, in favour of the joint-stock principle as against private ownership but it does consider that the private banker must, in the interests of his customers as well as in order to bring himself within the banking framework of the country, organise his business on recognised banking principles and practices.

7. It has been argued that in taking this line we are inconsistent with past declarations and policy. On the contrary, our proposals appear to us to be in absolute accordance with the spirit of the majority recommendation of the Banking Enquiry Committee. In paragraph 139 of their report they say:

"It must, however, be remembered that the Reserve Bank can only rediscount bank endorsed paper. We therefore propose that only such indigenous bankers as are engaged in banking proper, or are prepared to share their business other than banking, should be eligible to be placed on the approved list of the Reserve Bank in the same manner as the joint-stock banks".
They go on further to say in paragraph 144 -

"It is quite conceivable that a large number of indigenous bankers whose principal business is not banking or who do not take to banking as their principal business as soon as the Reserve Bank is established, will still remain outside the scope of our proposals. These will continue to obtain their banking facilities from the existing joint-stock banks, including the Imperial Bank of India".

adding that such bankers should be made eligible for central banking facilities if at a later stage they were prepared to satisfy the conditions described for them by the Reserve Bank.

8. The Committee did not venture on a legal definition of "Banking" which was for the first time defined in Indian Law by the addition of Section 277 F to the Indian Companies Act in 1936 defining a banking company as follows:

"A 'banking company' means a company which carries on as its principal business the accepting of deposits of money on current account or otherwise subject to withdrawal by cheque, draft or order, notwithstanding that it engages in addition in any one or more of the following forms of business etc., etc."

Thereafter ancillary activities are set out which are consonant with banking in the modern acceptance of the term and the Act goes on in Section 277 G to make it clear that a banking company must restrict itself to these forms of business. It is clear from paragraphs 677 to 682 of their report that the views of the Committee were on the same lines.

9. These quotations and references taken together make it, to our mind, abundantly plain that both the Banking Enquiry Committee and the Legislature regarded the taking of deposits as the distinguishing and principal feature of banking and that they desired us to confine our direct relationships to such. The latitude which the Committee recommended should be left to us was not to effect a breach in this basic principle but, as they clearly brought out in paragraphs 139 and 140 of their Report, to suggest what modifications, if any, we considered could be appropriately effected as regards the minimum capital and the rule regarding compulsory deposits that is the subject matter of Section 42 of our Act, when dealing with private as opposed to joint-stock banks.

10. The discussions which followed the publication of the Report of the Central Banking Enquiry Committee and those on the Reserve Bank Bill did not indicate any general desire on the part of the indigenous banker to limit and develop
his business on the lines suggested by them. On the other hand the suggestion was made that direct access should be given to 'indigenous bankers' who conducted other forms of business if they were prepared to segregate the two and to keep separate accounts. It is quite clear that unless

they give themselves separate legal entities in respect of these separate functions, the mere separation of accounts would be of no value at all. Liabilities incurred in respect of the one would have to be made good in the last resort from the assets of the other. We cannot conceive of any method whereby the two functions could be legally separated except by incorporation under the Companies Act and even this would not go far enough to meet the views of the Banking Enquiry Committee. It is obvious that even if they were legally separated an individual who was conducting the two separate types of business could draw on the assets of the one to meet the liabilities of the other so that even though the balance sheets in respect of the banking department seemed perfectly sound and satisfactory, the assets might be found to have disappeared when a call came to be made on them.

11. At the same time, we wished to go as far as we could to meet the natural reluctance of the indigenous banker immediately to abandon his various activities and we were therefore prepared to go beyond the recommendations of the Banking Enquiry Committee on this point and to allow the continuance of other than pure banking business so long as there was clear legal segregation, in the hope that one or the other activity would eventually be discarded. However we may drop the suggestion that legal segregation by incorporation under the Companies Act as this suggestion has not received any support from the indigenous bankers.

12. We must, therefore, go back to the recommendation of the Committee, which is that the only way in which it is practicable to admit indigenous bankers to direct access to us is their willingness to discard non-banking business and confine themselves to banking proper as defined in the recent amendments to the Indian Companies Act. If they are prepared to limit their business in this way, incorporation under the Companies Act is not to our mind the necessary preliminary. What is essential as the Banking Committee points out, is that they should develop deposit banking on approved lines and that they should maintain accounts which will be properly audited and published. In addition, if a private banker does not wish to incorporate himself under the Companies Act, he would have to file a statement setting out the names and interest of his business partners, if any, and if he was a member of a joint Hindu family, the names and extent of the interest of the various co-sharers with similar statements from testifying their willingness to assume their full share in the business.
13. The Banking Enquiry Committee did not suggest any precise figure for the minimum limit of capital. As our object is to encourage indigenous bankers to take up deposit banking so as eventually to fall into line with the scheduled banks, it is obvious that the minimum on which we should insist though it may be initially lower than that prescribed for the scheduled banks, should be one which is capable of being raised to the five lakhs prescribed for scheduled banks within a reasonable period, which we may, following the suggestion of the Banking Enquiry Committee, put at five years. We are prima facie of the opinion that the initial requirement should not be less than two lakhs and in this regard we are provisionally in agreement with the suggestion made in several of the replies received to our previous circular, though we shall make our final decision in the light of the replies received to para 16 of this circular.

14. We would also, as recommended by the Banking Enquiry Committee, be prepared to forgo insistence on a compulsory deposit for what may be called the experimental period of five years, subject to their proviso that the amount of time and demand liabilities remains less than five times the capital.

15. We would again like to make it clear that there would be no necessity for incorporation under the Companies Act during this experimental stage of five years and that during that period any banker who found those developments unsuitable would be at full liberty to renounce direct contact with us and revert to his original business. At the end of the five years, we would be in a much better position to put up definite proposals to the legislature, either for the framing of a separate Bank Act as suggested by the Banking Enquiry Committee or otherwise to standardise and co-ordinate the status of these registered private bankers on lines more in conformance with modern banking practice.

16. We are still, however, without any information whether these conditions will be widely availed of and we consider that it would be premature to take up the question of the detailed legislation which would be necessary to bring them into effect until this information is available. We would, therefore, be much obliged if the various organisations which represent the indigenous banker would ascertain from their members how many of them would be prepared to recast and limit their business on the lines suggested above. For the sake of convenience these conditions are summarised in the attached note.

17. We would also like to repeat that, again in accordance with the recommendation of the Banking Enquiry
Committee, it was our intention that where indigenous bankers did not wish to organise themselves on the lines mentioned above they should be given the opportunity of developing their discount business and that the Reserve Bank, by agreeing to accept paper bearing names of approved parties when presented through a scheduled bank, would encourage commercial banks to give them facilities for organizing such business. This business would, we consider, be capable of considerable development if the indigenous bankers were to take the scheduled banks more into their confidence by supplying them with information about the composition of their partnerships and submitting to them audited balance sheets. If they take these steps we are sure there will be much greater co-operation between the indigenous banks and the scheduled banks and through them with the Reserve Bank.

18. Apart from these proposals we would further suggest that those indigenous bankers who would not be eligible for direct Reserve Banking facilities under our scheme might organize themselves on a joint-stock basis into discount companies with membership confined to themselves within a given area. The Reserve Bank would be prepared to discount their paper when presented through such discount houses subject to the usual central banking principles. By this method the indigenous banker would not be required to make so complete a change in his present banking methods. We should be glad to give our careful consideration to any firm definite proposal on these lines.

Reserve Bank of India,
Central Office,
Calcutta, 26th August 1937.

J.B. TAYLOR, 
GOVERNOR.
ANNEXURE:

The following conditions should be stipulated for indigenous bankers who wish to be linked directly to the Reserve Bank:

(i) They must confine their business to banking proper as defined by the Indian Companies Act. Any other business that they might be conducting should be wound up within a reasonable time.

(ii) They must maintain proper books of account, and have been audited by registered accountants; the Reserve Bank will have the right to inspect the accounts and call for any information necessary to determine the financial status of the banker.

(iii) They must file with the Reserve Bank the periodical statements prescribed for scheduled banks. They must also, in the interests of their depositors, publish the returns prescribed for banking companies by the Companies Act and the liable to the same penalties for non-compliance.

(iv) The Reserve Bank will have the right of regulating the business of the bankers on banking lines, when necessary.

(v) During a period of five years from the date of their registration as private bankers in the books of the Reserve Bank, they will be entitled to open an account at any of the offices of the Reserve Bank, and be otherwise subject to the same conditions as the scheduled banks except that during such period they will not be required to furnish the compulsory deposits set out in Section 42 of the Reserve Bank Act, unless any of their weekly statements discloses that their time and demand liabilities are five times or more in excess of their capital in the business.

(vi) If an indigenous banker does not incorporate himself under the Companies Act, his liabilities in respect of his banking commitments will be unlimited. He should therefore state the amount of capital he has available for banking business. (Bankers with a capital of less than two lakhs need not apply).
(vii) When required they will have to indicate:

(a) the names and the extent of interest of their business partners if any; and

(b) if any of the bankers is a member of a Hindu joint family, the names and interests of the co-sharers. In both the cases statements will be required from the co-sharers that they are prepared to take their full share in the business and its liabilities.

(viii) This scheme will be a tentative one for a term of five years, but before the end of this period the Reserve Bank will frame proposals for legislation, if it thinks fit, further to co-ordinate or regulate the position of the private banker. It is likely that such legislation would take the form of a separate Bank Act as suggested by the Banking Enquiry Committee or otherwise to standardise and co-ordinate the status of these registered private bankers on lines in consonance with the scheduled banks.

(ix) 1. If they satisfy the above conditions, they will have the privilege of rediscount with the Reserve Bank against eligible paper, the right to secure advances against Government paper, and remittance facilities similar to those for the scheduled banks.

2. If the Reserve Bank decides to take action on the lines here indicated, legislation will be necessary, and the indigenous bankers will then be called upon to make an application in the manner which may then be prescribed.

3. The Reserve Bank wishes to know whether the members of your association are prepared to be registered as private bankers with it on the above terms. We shall be glad to have their names and capital resources communicated to us as early as possible but not later than the end of September.
APPENDIX B.


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On behalf of the Committee of our Association, I acknowledge the receipt of the "draft" scheme for the linking of the indigenous bankers with the Reserve Bank of India. The absence of finality and the doubt still indicated in the mind of the Reserve Bank in paragraph 16, detract somewhat from the felicitations, which our Association would have liked to offer to the Reserve Bank authorities on their statementlike recognition of the principle, that direct linking of the indigenous bankers with the Reserve Bank is essential and was contemplated by the Indian Central Banking Enquiry Committee as well as by the legislature when they passed the Reserve Bank of India Act. We are particularly glad that you have recognized the necessity of dropping the insistence on legal incorporation of the business of private banks. Our Association, desiring to see a much quicker realization of the idea, is pained that, three years after the passing of the Reserve Bank of India Act, this matter should still be the subject of enquiry involving search for information, and of doubt. We trust, however, that the scheme now put forward (modified in one or two respects as indicated hereunder) will not be held up any longer, but will be given effect to at the earliest possible moment, and the Reserve Bank authorities will request Government to initiate the necessary legislation therefor in the next session of the Legislative Assembly.

This Association does not agree with some of the views expressed in paragraphs 1, 2 and 3, but they are entirely at one with paragraphs 4 of your letter. The idea, that commercial joint-stock banks are assisting the indigenous banker with a large amount of capital, is wrong. On the contrary, commercial banks have competed with indigenous bankers and have taken away their business. Our Association is, therefore, happy to find that the Reserve Bank has abandoned its original suggestion, viz., that indigenous bankers must come through one or the other of the joint stock banks and would not be linked directly. Equally welcome is the assurance, that the Reserve Bank authorities have no predilection in favour of the joint-stock principle, but recognize that the highest class of banking service could be provided by firms of private bankers.
With regard to paragraphs 8 and 9, our Association is agreeable to the provisions of Sections 277(F) and 277(G) being applied to indigenous bankers, but they would not agree to the emphasis, which you are putting, viz., that the principal business should be the taking of deposits. What is provided in these sections is not a definition, but a description, and the description was necessarily taken to describe the working of joint-stock banks. The indigenous banking system, which has its points of difference as contrasted with the joint-stock banking system, but which, nevertheless, constitutes an important part of the credit system in India, and as such, has been considered by the Banking Committee and the legislature as fit and eligible for direct relationship with the Reserve Bank of India, would be somewhat unfairly treated, if the Reserve Bank authorities were to take such a description and call upon the indigenous bankers to conform to such description in all respects.

Last there should be any misunderstanding about the position of the indigenous banker, we would like to point out that the following would be found a little more in the activities of indigenous bankers:

Buying and selling bills of exchange, hoondias, and drafts, the negotiating of loans and advances; the collecting and transmitting of money; acting as agents for any person or persons, carrying on agency business of any description; financing, or assisting in financing any business; acquiring by purchase or otherwise any property immovable or moveable; acquiring any rights or privileges which .......... may think necessary or convenient to acquire, or the acquisition of which is likely to facilitate the realisation of any securities held, or to prevent or diminish any apprehended loss or liability; managing, selling and realising all property moveable and immovable which may come into the possession of .......... in satisfaction or part satisfaction of any of .......... 's claims; acquiring and holding and generally dealing with any property and any right, title or interest in any property moveable or immovable which may form part of the security for any loans or advances, or which may be connected with any such security; doing all such things as are incidental or conductive to the promotion or advancement of the business.

On behalf of my Committee, I should like to mention that there has been hitherto no call and inducement to the indigenous banker to indicate "any general desire to limit and develop his business on the lines suggested by them"
No valuable privilege has been held out to the indigenous banker, and no facility has been offered hitherto to make him go out of his way to curtail his activities and to adopt forms of business, which are convenient to the joint stock banks, but which would be somewhat inconvenient to him. Our Association cannot understand why the Reserve Bank authorities desire to make this into a reproach. The indigenous bankers have hitherto rightly objected to any revolutionary change in their activities in the absence of a precise statement of the facilities, which would be granted to them. I would like to point out that, banking business as defined above, covers most of their activities as commission agents. It covers all their activities, where they finance the purchase of goods, that are moving in the interior, and, as agents of the parties in the interior, they make the purchase of these goods in the central markets or at the ports. It covers further the activities of the indigenous banker when he gives out a loan for seeds, or for agricultural expenses, including the maintenance of the farmers while the crops are growing, and, when he receives the crops on behalf of the constituent, he deals with the same by selling them in the central market and crediting the amount realised to the account of the debtor. In both these activities it would be noticed that the indigenous banker makes purchases in the central market, or makes sales in the central market, but these transactions are as a rule for and on behalf of his constituents. It is this type of transactions, which predominate, and the indigenous banker charges often to his constituent not merely the interest on the amount engaged, but a commission for services rendered. The indigenous banker in such cases acts as a true banker in the sense, that he assesses the credit of the parties and as a general rule his assessment is sound, as he knows with whom to deal and upto what amount, and how to realise the money back. We trust that it is not the intention of the Reserve Bank authorities to ask the indigenous bankers to shed this part of their business which we maintain, is definitely covered by the quotations given above from Section 277(F) of the Indian Companies Act.

We would go further and say that the Reserve Bank authorities should not ask the indigenous bankers to discard such other family business as they may be carrying on in anticipation and as the result of a prejudice against the banker doing any business. The Reserve Bank must wait, till it has started dealings with these persons, and till it is demonstrat to the Bank in each individual case, that the continuance of a particular business would entail for the banking business such serious risk as to demand its discontinuance. The only question to decide is what would be called business outside the business of commission agents mentioned above, which it is the desire of the Reserve Bank authorities to segregate, as indicated in paragraphs 10 and 11.

The Shroffs Association has already agreed in its previous communication that, indulging in speculative activiti
should be regarded as a disqualification for direct relationship with the Reserve Bank. On this question the Association is very firm. The point of difference between the Association and the Bank is now narrowed down to the request of this Association, that only speculative business should be excluded and not all business. For example, if an indigenous firm of bankers, besides banking business, is dealing in gold and silver ornaments and silver utensils as merchants, is it seriously suggested by the Reserve Bank authorities that the continuance of such business, after the banker has become linked with the Reserve Bank, would be objectionable? On the contrary, our Association feels that, in some cases the stoppage of ancestral business of the kind illustrated above would involve not only the closing up of a lucrative source of income, but might be a blow to the prestige of the indigenous banker in his locality. I respectfully submit that, on these issues of what is proper and what is not proper so far as the indigenous bankers are concerned, the view of our Association should carry some weight with the Reserve Bank. Our Association would assure them that they are as anxious to see indigenous bankers taking a leading place as bankers in the life of the country, as important as they had once in the past. The difference arises because the Reserve Bank authorities evince too much hesitation and doubt and are laying down in respect of business other than banking, drastic and impracticable terms.

My Committee does not desire to indulge in any special pleading for the indigenous banker. But the marked hesitation of the Reserve Bank to proceed in the direction of linking them up, induces them to point out that there are about 350 places where there are branches of joint-stock banks in India, but there are no less than 2,575 moderate sized townships and 700,000 villages surrounding these townships and having close economic relations with these townships. While the indigenous banker plays some role even in important cities like Bombay and in those townships, where there are branches of joint stock banks, his part in banking and financing at the rest of the places is of the utmost importance. It is not the volume of the transactions in which these bankers figure, but it is the essential service in a place, where there is no other banking service, which they are rendering and which entitles them to the consideration of the Reserve Bank as well as of the legislature of the country.

This association would be very frank in pointing out in what manner the linking with the Reserve Bank will be useful and will be appreciated. The amount of deposits, which the indigenous bankers were drawing to themselves, have in recent years diminished very much. This has been due to many causes, the principal one being the suction, inducing loanable capital to flow from the interior into the ports and the money centres of India, which was also due in a very large measure to alternatives offered by very high rates, which the joint stock banks began to offer. It would be remembered that in 1931, Government had to borrow and pay on Treasury Bills a
rate slightly exceeding 7½ per cent. At the same time
Government offered not only in the Post Office savings bank,
but in the postal cash certificates a counter attraction,
the highest rate of postal certificates being six per cent
free of income-tax. Municipal and other debentures at very
heavy rates of interest were also counter-attractions. The
deposits with indigenous bankers in old times even took the
form of deposits without any interest, as only the safety of
the capital was considered. Deposits were kept to oblige the
clients and now always with a view to secure working capital.
Emergency calls on an indigenous banker were always met by
hundies drawn on larger parties generally outside the town-
ship. The lending rates of one indigenous banker to another
was always there. It was known as the "Sarafi Vyaj".
Even when the bank rate was 7 per cent, the loans between one
indigenous banker and another carried no more than 6 per cent.
Current accounts were also carried as between banker and clien
t and as between banker and banker. Whatever the reasons have
been in recent times for the weakening of the old system, the
linking with the Reserve Bank is expected in our opinion to
actually encourage more deposits being drawn towards them.
Their working capital would thus increase by this reason and
they would look up to the Reserve Bank for emergency capital
only, but this good result must necessarily take some years.
In the interval we believe, what may be technically called
normal finance would also have to be found in some measure for
the indigenous bankers. Our Association has no apprehension
whosoever that this course will lead to any difficulties, so
far as the Reserve Bank authorities are concerned. It would
be open to the Reserve Bank authorities gradually to stiffen
the terms, on which they would provide, what they consider
normal finance, driving the indigenous bankers more and more
to rely on such deposits as they can attract, but our submissi
is that this should be done gradually. It should be under-
standingly and our Association earnestly requests that these
matters should not be handled with a hard and fast code of
rules. In this connection our Association anticipates that,
though all the registered bankers would be eligible for loans
and advances and discount facilities only some of them would
on some occasions make use of finance from the Reserve Bank
for normal purposes. Therefore our Association is anxious
that the prime benefit of linking with the Reserve Bank should
not be destroyed by a strict requirement that, finance from
the Reserve Bank should be only used in an emergency.

The result, which the Reserve Bank authorities desire
to see at once, viz., the elimination of all other business,
would be achieved in due course as the volume of business
increases. When, after some years, some of the bankers on
the register find that their banking business is of sufficient
volume to make it attractive for them to shed all other
business, they will not need any serious persuasion to do so.
Our Association is confident that some of them will even seek
to turn themselves into joint-stock banks with limited
liability, but our Association would earnestly request that
they should be no misapprehension with regard to the
processes, and the Reserve Bank authorities should not attempt to have in the beginning and at once that desirable goal, which, we all agree, should be reached gradually and by the process indicated above.

Having covered the general ground, and dealt more particularly with clause (i) of the annexure, I will now proceed with some comments on the other clauses.

The requirement in clause (iii) of publishing the returns prescribed for banking companies by the Companies Act, would appear to us to be drastic, so far as the indigenous bankers are concerned. Such a requirement seems to be redundant. In any case, the publication thereof, so that all and sundry may know about this, would do more harm than good. We trust that the Reserve Bank authorities will not insist on this requirement. This does not mean, that all particulars wanted by the Reserve Bank authorities themselves should not be supplied.

With regard to clause (iv), the word "Regulating" used therein is not quite clear, and it is requested that the scope of this may be indicated, if convenient.

With regard to clause (vi) our Association appreciates that, indigenous bankers working as firms of private ownership would carry unlimited liability. Though the Reserve Bank authorities do not insist on incorporation, our Association infers that, the Reserve Bank authorities would be glad if some of the indigenous bankers did register themselves as private limited companies. In any event, we read the assurance that, the incorporation by an indigenous banker running his banking business with a capital of not less than Rs. 2,00,000/- will not mean any diminution in the status and privileges attached to him as a registered banker.

We have every confidence that, many members of our Association will offer themselves for registration if this scheme modified, as requested by us, is put forward and explained to them. Our Association would, doubtless, place its services at their disposal in connection with this. We may say at once, that, our Association has not particulars of the capital resources of its members, and it would not be proper for us to make a request for this information as, in Indian business, as elsewhere in the world it is generally considered offensive to put a direct query to a part. Such information would be vouchsafed directly by them to the Reserve Bank as and when they seek registration. Indeed, we think it is somewhat premature to ask for this information, until the necessary amending act, which will enable
the scheme to be put into effect, is put on the Satute Book.

Subject to the few comments made above, we reiterate our felicitations to the Reserve Bank authorities for the progress made in the consideration of this important matter, and trust that no further time will be lost in giving effect to this scheme.
APPENDIX C.

Letter dated 27th September 1937 from Seth Fatichand Gokaldas, Bankers, Madura, to the Manager, Reserve Bank of India, Madras.

We are in receipt of your letter No M.No.1050/4 (7) - 37 of 22nd instant enclosing a copy of the Draft Scheme for the linking of indigenous bankers with your bank and thank you for the same.

2. It is a matter of deep regret that we Multani bankers who are directly concerned in the matter have not at all been consulted. In Madras Presidency alone there will be more than 100 Multani bankers, doing business at various places besides a number of Marwari, Gujrati and others. So far as we are concerned, in every place where we have got our firms, there is an association called "The Multani Shroff Association" which is regulating our business including the fixing of rates in different localities. Though these associations are not registered, but all Multani bankers are expected to abide by their rules. Even at Madras proper there is the office of our Association whose president is Seth Mangoomal Lunidasing, Bankers, 430 Mint Street, Madras. On enquiry we learn that even this association has not been consulted in the matter. We are therefore of opinion that in case you really want that some of our bankers should have connection with your bank, it is very much necessary that you should have a personal talk with the President of the Madras Association and also invite opinions from other associations.

3. However we give below our personal opinion on the various clauses of the Draft Scheme sent by you.

(i) This may be adopted.

(ii) to (iv) So far as our account books are concerned they have been kept properly and systematically and have to be produced from time to time in Courts of Law and also Income Tax Offices and have never been found fault with. But all our bankers come from Shikarpur a place near Karachi in Sind and therefore all our accounts are kept in our own language viz., Sindhi. As such it will be impossible to have them audited by registered
Accountants who will not be able to make a head or tail out of these account books, they being unfamiliar with the language. Besides it is highly objectionable to produce our Account Books to the Reserve Bank or any other bank for the small facility of getting credit for discounting bills with them. It is better to forego the facility than to submit to such unreasonable demands. Our business is based on strict privacy and it will greatly hamper our business if we make up our mind to show our account books. Besides like the Reserve Bank every other blessed bank having dealings with us will call upon us to produce our accounts at any time and the result will be, we will be at the mercy of the scheduled banks. The object underlying the inspection of account appears to be that our deposits should be regulated. In this connection we may point out that we are always averse to taking deposits and have been mainly relying for our resources on our own capital. It is only during season time that we discount our bills with the Scheduled banks. These Scheduled Banks have been doing business with us for the last number of years and they have good confidence in us knowing well our position and status and also knowing that we do not take deposits from the public at large. As such they have been giving us greater facilities, and have been discounting our bills at the Imperial Bank rate. Now if we change our policy these banks will hesitate to do business with us and therefore in the long run our connection with the Reserve Bank on the lines given by you will be ruinous.

Besides when the Scheduled banks are taking deposits at interest from 4 to 7 per cent, we feel it will not be worthwhile to do business with borrowed capital, as unlike scheduled banks we advance money without any security on a single signature on the personal credit of the party concerned, which is very risky. In case deposits are accepted, we will have to find ways for investment, as otherwise it will be a loss to us. For depositors we will have to keep certain amount of money at hand and lose interest thereon, in order to keep up our prestige. If the Reserve Bank wishes to do business with the Indigenous Bankers on the lines of the Imperial Bank and other banks, the step would be most welcome and Multani bankers would be glad to avail themselves of the facility offered to them, but on the terms and conditions mentioned by you we may assure you no banker with self-respect would come to your door to have the facility of discounting bills with you.

Since we are not taking deposits the question of our supplying periodical statements does not arise.

(v) Multani bankers would not like to have compulsory deposits with your bank as required under section 42 of the Reserve Bank Act.

(vi) No one of our bankers would like to show his real capital in trade. It is up to your bank to make enquiries about their financial stability as other scheduled banks have been doing.
(vii) This is harmless and may be adopted.

(viii) and (ix). These matters have to be decided by your bank and we have no opinion to offer on them.

In conclusion we may state that the banking also is like every other business and when people are doing business with their own capital, it is not understood why the Reserve Bank should have the entire control over the activities of the Bankers alone. Bankers are indispensable as they have been financing trade and commerce and of the country and by adopting strict rules and regulations, you will be driving bankers from banking proper and make them adopt some other business. This result will be that trade and commerce of the country will suffer to a very great extent.
APPENDIX "D".

Registered No. D 23.

THE GAZETTE OF INDIA EXTRAORDINARY.

NEW DELHI, THURSDAY MARCH 10,
1949.

PART IV.
Acts of the Dominion Legislature assented to by the Governor General.

Government of India
MINISTRY OF LAW
New Delhi, the 10th March, 1949.

The following Act of the Dominion Legislature received the assent of the Governor-General on the 10th March 1949 and is hereby published for general information:

Act No. X of 1949.
An Act to consolidate & amend the law relating to banking Cos.

WHEREAS it is expedient to consolidate and amend the law relating to banking companies:

It is hereby enacted as follows:

PART I.
Preliminary.

1. SHORT TITLE, EXTENT & COMMENCEMENT: -(1) This Act may be called THE BANKING COMPANIES ACT, 1949.

(2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State as respects banking.
(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. **APPLICATION OF OTHER LAWS NOT BARRED** :- The provisions of this Act shall be in addition to, and not, save as hereinafter expressly provided, in derogation of, the Indian Companies Act, 1913 (VII of 1913), and any other laws for the time being in force.

3. **ACT NOT TO APPLY TO CO-OPERATIVE BANKS** :- Nothing in this Act shall apply to a co-operative bank registered under the Co-operative Societies Act, 1912 (II of 1912), or any other law for the time being in force in any Province of India relating to co-operative societies.

4. **POWER TO SUSPEND OPERATION OF ACT** :- (1) The Central Government, if on a representation made by the Reserve Bank in the behalf it is satisfied that it is expedient so to do, may by notification in the Official Gazette suspend for such period, not exceeding sixty days, as may be specified in the notification, the operation of all or any of the provisions of this Act, either generally or in relation to any specified banking company.

(2) In a case of special emergency, the Governor of the Reserve Bank, or in his absence a Deputy Governor of the Reserve Bank nominated by him in this behalf may, by order in writing, exercise the powers of the Central Government under sub-section (1) so however that the period of suspension shall not exceed thirty days, and where the Governor or the Deputy Governor, as the case may be, does so, he shall report the matter to the Central Government forthwith, and the order shall, as soon as may be, be published in the Gazette of India.

(3) The Central Government may, by notification in the official Gazette, extend from time to time the period of any suspension ordered under sub-section (1) or sub-section (2) for such period, not exceeding sixty days at any one time, as it thinks fit so however that the total period does not exceed one year.

(4) A copy of any notification issued under sub-section (3) shall be laid on the table of the Dominion Legislature as soon as may be after it is issued.

5. **INTERPRETATION** :- (1) In this Act, unless there is anything repugnant in the subject or context,-

(a) "approved securities" means securities in which a trustee may invest money under clause (a), clause (b), clause (bb), clause (c) or clause (d) of section 20 of the Indian Trusts Act, 1882 (II of 1882), and such securities of, or fully guaranteed by, Acceding States as the Reserve Bank may be authorised to purchase under clause (8) of section 17 of the Reserve Bank of India Act, 1934 (II of 1934).
(b) "banking" means the accepting, for the purpose of lending or investment, of deposits of money from the public repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise;

(c) "banking company" means any company which transacts the business of banking in any Province of India;

Explanation : - Any company which is engaged in the manufacture of goods or carries on any trade and which accepts deposits of money from the public merely for the purpose of financing its business as such manufacturer or trader shall not be deemed to transact the business of banking within the meaning of this clause;

(d) "company" means any company which may be wound up under the Indian Companies Act, 1913 (VII of 1913);

(e) "Court" means the Court having jurisdiction under the Indian Companies Act, 1913;

(f) "Demand liabilities" means liabilities which must be met on demand, and "time liabilities" means liabilities which are not demand liabilities.

(g) "gold" includes gold in the form of coin, whether legal tender or not, or in the form of bullion or ingot, whether refined or not;

(h) "managing agent" means a person, firm or company entitled to the management of the whole affairs of a banking company by virtue of an agreement with the company or by virtue of the memorandum or articles of association relating thereto, and under the control and direction of the directors except to the extent, if any, otherwise provided for in the agreement, memorandum or articles of association, and includes any person, firm or company occupying such position by whatever name called;

Explanation : - If a person occupying the position of managing agent calls himself manager or managing director, he shall nevertheless be deemed to be a managing agent for the purposes of this Act;

(i) "private company" has the same meaning as in the Indian Companies Act, 1913.

(j) "prescribed" means prescribed by rules made under this Act.

(k) "registrar" has the same meaning as in the Indian Companies Act, 1913;

(l) "Reserve Bank" means the Reserve Bank of India;
(m) "Scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934; and

(n) "secured loan or advance" means a loan or advance made on the security of assets the market value of which is not at any time less than the amount of such loan or advance; and "unsecured loan or advance" means a loan or advance not so secured.

(2) In the application of this Act to Acceding States all references to the Provinces of India shall be construed as including references to the Acceding States to which this Act extends.

PART II.

BUSINESS OF BANKING COMPANIES

6. FORMS OF BUSINESS IN WHICH BANKING COMPANIES MAY ENGAGE:
(1) In addition to the business of banking, a banking company may engage in any one or more of the following forms of business, namely:

(a) the borrowing, raising, or taking up of money; the lending or advancing of money either upon or without security; the drawing, making, accepting, discounting, buying, selling, collecting and dealing in bills of exchange, promissory notes, drafts, bills of lading, railway receipts, warrants, stocks, debentures, certificates, scrips and other instruments, and securities whether transferable or negotiable or not; the granting and issuing of letters of credit, traveller's cheques and circular notes; the buying, selling and dealing in bullion and specie; the buying and selling of foreign exchange including foreign bank notes; the acquising, holding, issuing on commission, underwriting and dealing in stock, funds, shares, debentures, debentures stock, bonds, obligations, securities and investments of all kinds; the purchasing and selling of bonds, scrips or other forms of securities on behalf of constituents or others, the negotiating of loans and advances; the receiving of all kinds of bonds, scrips or valuables on deposit or for safe custody or otherwise; the providing of safe deposit vaults; the collecting and transmitting of money and securities;

(b) acting as agents for any Government or local authority or any other person or persons; the carrying on of agency business of any description including the clearing and forwarding of goods, giving of receipts and discharges and otherwise acting as an attorney on behalf of customers, but excluding the business of a managing agent of a company;
(c) contracting for public and private loans and negotiating and issuing the same;

(d) the effecting, insuring, guaranteeing, underwriting, participating in managing and carrying out of any issue, public or private, of State, municipal or other loans or of shares, stock, debentures, or debenture stock of any company, corporation or association and the lending of money for the purpose of any such issue;

(e) carrying on and transacting every kind of guarantee and indemnity business;

(f) managing, selling and realising any property which may come into the possession of the company in satisfaction or part satisfaction of any of its claims;

(g) acquiring and holding and generally dealing with any property or any right, title or interest in any such property which may form the security or part of the security for any loans or advances or which may be connected with any such security;

(h) undertaking and executing trusts;

(i) undertaking the administration of estates as executor, trustee or otherwise.

(j) establishing and supporting or aiding in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or ex-employees of the company or the dependents or connections of such persons; granting pensions and allowances and making payments towards insurance; subscribing to or guaranteeing moneys for charitable or benevolent objects or for any exhibition or for any public general or useful object;

(k) the acquisition, construction, maintenance and alteration of any building or works necessary or convenient for the purposes of the company;

(l) selling, improving, managing, developing, exchanging, leasing, mortgaging, disposing of or turning into account or otherwise dealing with all or any part of the property and rights of the company.

(m) acquiring and undertaking the whole or any part of the business of any person or company, when such business is of a nature enumerated or described in this sub-section;

(n) doing all such other things as are incidental or conducive to the promotion or advancement of the business of the company.
(c) any other form of business which the Central Government may, by notification in the official Gazette, specify as a form of business in which it is lawful for a banking company to carry on.

(2) No banking company shall engage in any form of business other than those referred to in sub-section (1).

7. USE OF WORDS "BANK", "BANKER", "BANKING".— After the expiry of two years from the commencement of this Act, no company, other than a banking company, shall use as part of its name any of the words "bank", "banker", or "banking" and no company shall carry on the business of banking in any Province of India, unless it uses as part of its name at least one of such words:

Provided that nothing in this section shall apply to any association of banks formed for the protection of their mutual interests and registered under section 26 of the Indian Companies Act, 1913 (VII of 1913).

8. PROHIBITION OF TRADING.— Notwithstanding anything contained in section 6 or in any contract, no banking company shall directly or indirectly deal in the buying or selling or bartering of goods, except in connection with the realisation of security given to or held by it, or engage in any trade, or buy, sell or barter goods for others otherwise than in connection with bills of exchange received for collection or negotiation or with such of its business as is referre to in clause (1) of sub-section (1) of section 6:

Provided that this section shall not apply to any such business as aforesaid which was in the course of being transacted on the commencement of this Act, so however, that the said business shall be completed before the expiry of one year from such commencement.

Explanation.— For the purposes of this section, "goods" means every kind of movable property, other than actionable claims, stocks, shares, money, bullion and specie, and all instruments referred to in clause (a) of sub-section (1) of section 6.

9. DISPOSAL OF NON-BANKING ASSETS.— Notwithstanding anything contained in section 6, no banking company shall hold any immovable property howsoever acquired, except such as is required for its own use, for any period exceeding seven years from the acquisition thereof or from the commencement of this Act, whichever is later or any extension of such period as in this section provided, and such property shall be disposed of within such period or extended period, as the case may be.
Provided that the banking company may, within the period of seven years as aforesaid, deal or trade in any such property for the purpose of facilitating the disposal thereof:

Provided further that the Reserve Bank may in any particular case extend the aforesaid period of seven years by such period not exceeding five years where it is satisfied that such extension would be in the interests of the depositors of the banking company.

10. PROHIBITION OF EMPLOYMENT OF MANAGING AGENTS AND RESTRICTIONS ON CERTAIN FORMS OF EMPLOYMENT.

(1) No banking company shall employ or be managed by a managing agent, or shall employ any person:

(i) who is or at any time has been adjudicated insolvent, or has suspended payment or has compounded with his creditors, or who is or has been convicted by a criminal Court of an offence involving moral turpitude;

(ii) whose remuneration or part of whose remuneration takes the form of commission or of a share in the profits of the company; or

(iii) whose remuneration is, according to the normal standards prevailing in banking business, on a scale disproportionate to the resources of the company; or

(2) shall be managed by any person:

(i) who is a director of any other company, not being a subsidiary company of the banking company; or

(ii) who is engaged in any other business or vocation; or

(iii) who has a contract with the company for its management for a period exceeding five years at any one time:

Provided that the said period of five years shall, in relation to contracts subsisting on the 1st day of July, 1944, be computed from that date;

Provided further that any contract with the company for its management may be renewed or extended for a further period not exceeding five years at a time if and so often as the directors so decide.

(2) If any question arises in any particular case whether the remuneration is, according to the normal standards prevailing in banking business, on a scale disproportionate to the
resources of the company for the purpose of sub-clause (iii) of clause (b) of sub-section (1), the desision of the Reserve Bank thereon shall be final for all purposes.

11. REQUIREMENT AS TO MINIMUM PAID-UP CAPITAL AND RESERVES

(1) Notwithstanding anything contained in section 103 of the Indian Companies Act, 1913 (VII of 1913), no banking company in existence on the commencement of this Act, shall, after the expiry of three years from such commencement or of such further period not exceeding one year as the Reserve Bank, having regard to the interests of the depositors of the company, may think fit in any particular case to allow, carry on business in any Province of India, and no other banking company shall, after the commencement of this Act, commence or carry on business in any Province of India, unless it has paid-up capital and reserves of such aggregate value as is herein-after required by this section.

(2) In the case of a banking company incorporated elsewhere than in a Province of India, the aggregate value of its paid-up capital and reserves shall not be less than fifteen lakhs of rupees, and, if it has a place or places of business in the City of Bombay or Calcutta or both, twenty lakhs of rupees:

Provided that no such banking company shall be deemed to have complied with the provisions of this sub-section, unless it deposits and keeps deposited with the Reserve Bank an amount not less than the minimum required by this sub-section, either in cash or in unencumbered approved securities or partly in cash and partly in such securities.

(3) In the case of any banking company to which the provisions of sub-section (2) do not apply, the aggregate value of its paid-up capital and reserves shall not be less than:

(i) if it has places of business in more than one Province, five lakhs of rupees, and if any such place or places of business is or are situated in the City of Bombay or Calcutta or both, ten lakhs of rupees:

(ii) if it has all its places of business in one Province none of which is situated in the City of Bombay or Calcutta, one lakh of rupees in respect of its principal place of business, plus ten thousand rupees in respect of each of its other places of business situated in the same district in which it has its principal place of business, plus twenty-five thousand rupees in respect of each place of business situated elsewhere in the Province otherwise than in the same district:
Provided that no banking company to which this clause applies shall be required to have paid-up capital and reserves exceeding an aggregate value of five lakhs of rupees.

Provided further that no banking company to which this clause applies and which has only one place of business, shall be required to have paid-up capital and reserves exceeding an aggregate value of fifty thousand rupees;

(iii) if it has all its places of business in one province, one or more of which is or are situated in the City of Bombay or Calcutta, five lakhs of rupees, plus twenty-five thousand rupees in respect of each place of business situated outside the City of Bombay or Calcutta, as the case may be;

Provided that no banking company to which this clause applies shall be required to have paid-up capital and reserves exceeding an aggregate value of ten lakhs of rupees.

Explanation 1 - For the purposes of this sub-section, a place of business situated in a Province other than that in which the principal place of business of banking company is situated shall, if it is not more than twenty-five miles distant from such principal place of business, be deemed to be situated within the same Province as such principal place of business.

(4) Any amount deposited and kept deposited with the Reserve Bank under the proviso to sub-section (2) by any banking company incorporated elsewhere than in a Province of India shall, in the event of the company ceasing for any reason to carry on banking business in the Provinces of India, be an asset of the company on which the claims of all the creditors of the company in the Provinces of India shall be a first charge.

(5) For the purposes of this section "value" means the real or exchangeable value, and not the nominal value which may be shown in the books of the banking company concerned.

(6) If any dispute arises in computing the aggregate value of the paid-up capital and reserves of any banking company, a determination thereof by the Reserve Bank shall be final for the purposes of this section.

18. REGULATION OF PAID-UP CAPITAL, SUBSCRIBED CAPITAL AND AUTHORISED CAPITAL, AND VOTING RIGHTS OF SHAREHOLDERS : - No banking company shall carry on business in any Province of India, unless it satisfies the following conditions, namely : -
(i) that the subscribed capital of the company
is not less than one half of the authorised capital,
and the paid-up capital is not less than one half of
the subscribed capital and that, if the capital is
increased, it complies with the conditions prescribed
in this clause within such period not exceeding two
years as the Reserve Bank may allow;

(ii) that the capital of the company consists of
ordinary shares only or of ordinary shares and such
preference shares as may have been issued prior to the
1st day of July, 1944.

(iii) that, subject to the provisions contained in
clause (iv) hereof, the voting rights of any one share-
holder, whether a preference shareholder of an ordinary
shareholder, are strictly proportionate to the contri-
bution made by him to the paid-up capital of the company.

(iv) that the voting rights of any one shareholder
do not exceed five per cent of the total voting rights
of all the shareholders:

Provided that nothing contained in this section shall
apply to any banking company incorporated before the 15th day
of January 1937.

13. RESTRICTION ON COMMISSION, BROKERAGE,
DISCOUNT, ETC., ON SALE OF SHARES: - Notwithstanding
anything to the contrary contained in sections 106 and 106A
of the Indian Companies Act, 1913 (VII of 1913), no banking
company shall pay out directly or indirectly by way of commis-
sion, brokerage, discount or remuneration in any form in
respect of any shares issued by it, any amount exceeding in
the aggregate two and one-half per cent. of the paid-up
value of the said shares.

14. PROHIBITION OF CHARGE ON UNPAID CAPITAL: - No banking
company shall create any charge upon any unpaid capital of
the company, and any such charge shall be invalid.

15. RESTRICTIONS AS TO PAYMENT OF DIVIDEND: - No bank-
ing company shall pay any dividend on its shares until all its
capitalised expenses (including preliminary expenses, organi-
sation expenses, share-selling commission, brokerage, amounts
of losses incurred and any other item of expenditure not
represented by tangible assets) have been completely written
off.

16. PROHIBITION OF COMMON DIRECTORS: - No banking
company incorporated in a Province of India shall have as a
director any person who is a director of another banking
company.

17. RESERVE FUND: - Every banking company incorporate-
in a Province of India shall maintain a reserve fund, and sha
out of the net profits of each year and before any dividend is declared, transfer a sum equivalent to not less than twenty per cent. of such profits to the reserve fund until the amount of the said fund is equal to the paid-up capital.

Explanation:— For the purposes of this section, the expression “net profits” shall have the meaning assigned to it in sub-section (8) of section 87C of the Indian Companies Act 1913 (VII of 1913).

18. CASH RESERVE :— Every banking company not being a scheduled bank shall maintain by way of cash reserve in cash with itself, or in an account opened with the Reserve Bank, or partly in cash with itself and partly in such account a sum equivalent to at least two per cent of its time liabilities and five per cent of its demand liabilities and shall file with the Reserve Bank before the fifteenth day of every month three copies of a statement of the amount so held on Friday of each week of the preceding month with particulars of its time and demand liabilities on each Friday.

19. RESTRICTION ON MATURE OF SUBSIDIARY COMPANIES :-

(1) A banking company shall not form any subsidiary company except a subsidiary company formed for one or more of the following purposes, namely, the undertaking and executing of trusts, the undertaking of the administration of estates as executor, trustee or otherwise, the providing of safe deposit vaults or, with the previous permission in writing of the Reserve Bank, such other purposes as are incidental to the business of banking.

(2) Save as provided in sub-section (1), no banking company shall hold shares in any company, whether as pledgee, mortgagee or absolute owner, of an amount exceeding thirty per cent of the paid-up share capital of that company or thirty per cent of its own paid-up share capital and reserves, whichever is less:

Provided that any banking company which is on the date of the commencement of this Act holding any shares in contravention of the provisions of this sub-section shall not be liable to any penalty therefor if it reports the matter without delay to the Reserve Bank and if it brings its holding of shares into conformity with the said provisions within such period, not exceeding two years, as the Reserve Bank may think fit to allow.

(3) Save as provided in sub-section (1) and notwithstanding anything contained in sub-section (2), a banking company shall not, after the expiry of one year from the date of the commencement of this Act, hold shares, whether as pledgee, mortgagee or absolute owner, in any company in the management of which any managing director or manager of the banking company is in any manner concerned or interested.
20. **RESTRICTIONS ON LOANS AND ADVANCES:** - (1) Notwithstanding anything to the contrary contained in section 54A of the Indian Companies Act, 1913 (VII of 1913), no banking company shall make any loans or advances on the security of its own shares, or grant unsecured loans or advances to any of its directors or to firms or private companies in which it or any of its directors is interested as partner or managing agent or to any individuals, firms or private companies in cases where any of the directors is a guarantor.

(2) Every banking company shall, before the close of the month succeeding that to which the return relates, submit to the Reserve Bank a return in the prescribed form and manner, showing all unsecured loans and advances granted by it to companies in which it or any of its directors is interested as director or managing agent or guarantor.

(3) If on examination of any return submitted under sub-section (2) it appears to the Reserve Bank that any loans or advances referred to in that sub-section are being granted to the detriment of the interests of the depositors of the banking company, the Reserve Bank may, by order in writing, prohibit the banking company from granting any such further loans or advances or impose such restrictions on the grant thereof as it thinks fit, and may by like order direct the banking company to secure the repayment of any such loan or advance within such time as may be specified in the order.

21. **POWER OF RESERVE BANK TO CONTROL ADVANCES BY BANKING COMPANIES:** - (1) Where the Reserve Bank is satisfied that it is necessary or expedient in the public interest so to do, it may determine the policy in relation to advances to be followed by banking companies generally or by any banking company in particular, and when the policy has been so determined, all banking companies or the banking company concerned, as the case may be, shall be bound to follow the policy as so determined.

(2) Without prejudice to the generality of the power vested in the Reserve Bank under sub-section (1) the Reserve Bank may give directions to banking companies, either generally or to any banking company or group of banking companies in particular, as to the purposes for which advances may or may not be made, the margins to be maintained in respect of secured advances and the rates of interest to be charged on advances, and each banking company shall be bound to comply with any directions as so given.

22. **LICENSING OF BANKING COMPANIES:** - (1) Save as herinafter provided, no company shall carry on banking business in any Province of India unless it holds a licence granted by the Reserve Bank in such behalf.

(2) Every banking company in existence on the commencement of this Act before the expiry of six months from such commencement, and every other company before commencing banking
business in any Province of India, shall apply in writin
to the Reserve Bank for a licence under this section:

Provided that in the case of a banking company in
eexistence on the commencement of this Act, nothing in sub-sec
tion (1) shall be deemed to prohibit the company from carryin
on banking business until it is granted a licence in pursuance
of sub-section (2) of is by notice in writing informed by the
Reserve Bank that a licence cannot be granted to it:

Provided further that the Reserve Bank shall not
give a notice as aforesaid to a banking company in existence
on the commencement of this Act before the expiry of the three
years referred to in sub-section (1) of section 11 or of
such further period as the Reserve Bank may under that sub-
section think fit to allow:

(3) Before granting any licence under this section, the
Reserve Bank may require to be satisfied by an inspection
of the books of the company or otherwise that all or any of
the following conditions are fulfilled, namely:

(a) that the company is in a position to pay its
depositors in full as their claims accrue;

(b) that the affairs of the company are not being
conducted to the detriment of the interests of its
depositors;

(c) in the case of a company incorporated else-
where than in a Province of India that the Government or
law of the country in which it is incorporated does not
discriminate in any way against banking companies re-
gistered in a Province of India, and that the company
complies with all the provisions of this Act, applicable
to banking companies incorporated outside the Provinces
of India.

(4) The Reserve Bank may:

(a) cancel any licence granted under this section
where any of the conditions set out in sub-section (3)
on the fulfilment of which it required to be satisfied
when granting the licence, ceases to be fulfilled or if
the company ceases to carry on banking business in the
Provinces of India or goes into liquidation;

(b) At any time after granting a licence under
this section require that any of the said conditions,
on the fulfilment of which it did not require to
be satisfied when granting the licence, shall be ful-
filled to its satisfaction within such time as it may
specify, and if the condition is not so fulfilled, cancel
the licence.
23. **RESTRICTIONS ON OPENING OF NEW, AND TRANSFER OF EXISTING, PLACES OF BUSINESS:** - No banking company shall open a new place of business or change, otherwise than within the same city, town or village, the location of an existing place of business without obtaining the prior permission in writing of the Reserve Bank; and before giving any such permission the Reserve Bank may require to be satisfied by an inspection under section 35 or otherwise as to the financial condition and history of the company, the general character of its management, the adequacy of its capital structure and earning prospects and that public interest will be served by the opening or, as the case may be, change of location, of the place of business.

Provided that nothing in this section shall apply to the opening for a period not exceeding one month of a temporary place of business within a city, town or village or the environs thereof within which the banking company already has a place of business for the purpose of affording banking facilities to the public on the occasion of an exhibition, conference or mela.

Explanation: - For the purposes of this section "place of business" includes any sub-office, pay-office, sub-pay-office and any place of business at which deposits are receive cheques cashed or moneys lent.

24. **MAINTENANCE OF A PERCENTAGE OF ASSETS:** - (1) after the expiry of two years from the commencement of this Act, every banking company shall maintain in cash, gold or unencumbered approved securities, valued at a price not exceeding the current market price, an amount which shall not at the close of business on any day be less than twenty per cent of the total of its time and demand liabilities in the Provinces of India.

Explanation: - For the purposes of this section liabilities shall not include the paid-up capital or the reserves or any credit balance in the profit and loss amount of the company or the amount of any loan taken from the Reserve Bank.

(2) In computing the amount for the purposes of sub-section (1) the deposit required under the proviso to sub-section (2) of section 11 to be made with the Reserve Bank by a banking company incorporated elsewhere than in a Province of India and any balance maintained by a banking company with the Reserve Bank or its agent or both, including in the case of a scheduled bank the balance required under sub-section (1) of section 42 of the Reserve Bank of India Act 1934 (II of 1934) to be so maintained, shall be deemed to be cash maintained.
(3) For the purpose of ensuring compliance with the provisions of this section, every banking company shall, not later than fifteen days after the end of the month to which it relates, furnish to the Reserve Bank in the prescribed form and manner a monthly return showing particulars of its assets maintained in accordance with this section, and its time and demand liabilities at the close of business on each Friday during the month, or if any Friday is a public holiday under the Negotiable Instruments Act, 1881 (XVI of 1881), at the close of business on the preceding working day.

25. Assets in the Provinces of India.—(1) The assets in the Provinces of India of every banking company at the close of the last working day of every quarter shall not be less than seventy-five per cent. of its demand and time liabilities therein.

(2) Every banking company shall, within one month from the end of every quarter, submit to the Reserve Bank a return in the prescribed form and manner of the assets and liabilities referred to in sub-section (1) as at the close of the last working day of the previous quarter.

(3) For the purposes of this section,—

(a) "assets" shall be deemed to include such promissory notes, bills of exchange and securities as the Reserve Bank is, under the Reserve Bank of India Act, 1934 (II of 1934) empowered to purchase, discount or make advances against, and export bills drawn in, and import bills drawn on, and payable in India and expressed in such currencies as the Reserve Bank may from time to time approve in this behalf;

(b) "quarter" means the period of three months ending on the last day of March, June, September or December.

26. RETURN OF UNCLAIMED DEPOSITS.—Every banking company shall, within thirty days after the close of each calendar year, submit a return in the prescribed form and manner to the Reserve Bank as at the end of such calendar year of all account in the Provinces of India which have not been operated upon for ten years, giving particulars of the deposits standing to the credit of each such account;

Provided that in the case of money deposited for a fixed period the said term of ten years shall be reckoned from the date of the expiry of such fixed period.

27. MONTHLY RETURNS AND POWER TO CALL FOR OTHER RETURNS AND INFORMATION.—(1) Every banking company shall before the close of the month succeeding that to which it relates submit to the Reserve Bank a return in
the prescribed form and manner showing its assets and liabilities in the Provinces of India as at the close of business on the last Friday of every month or if that Friday is a public holiday under the Negotiable Instruments Act, 1881 (XVI) of 1881, at the close of business on the preceding working day.

(2) The Reserve Bank may at any time, by notice in writing, require a banking company to furnish it within the time specified therein or such further time as the Reserve Bank may allow, with statements and information relating to the business of such a banking company, and without prejudice to the generality of the foregoing power, may call for information of banking companies in respect of industry, commerce and agriculture.

28. POWER TO PUBLISH INFORMATION. - The Reserve Bank, if it considers it in the public interest so to do, may publish any information obtained by it under section 27 in such consolidated form as it thinks fit.

29. ACCOUNTS AND BALANCE-SHEET. - (1) At the expiration of each calendar year every banking company incorporated in a Province of India, in respect of all business transacted by it, and every banking company incorporated outside the Provinces of India, in respect of all business transacted through its branches in the Provinces of India, shall prepare with reference to that year a balance-sheet and profit and loss account as on the last working day of the year in the Form set out in the Third Schedule or as near thereto as circumstances admit:

Provided that in the case of a banking company incorporated outside the Provinces of India, the profit and loss account may be prepared as on a date not earlier than two months before the last working day of the year.

(2) The balance-sheet and profit and loss account shall be signed.-

(a) in the case of a banking company incorporated in a Province of India, by the manager or the principal officer of the company and where there are more than three directors of the company, by at least three of those directors, or where there are not more than three directors, by all the directors, and

(b) in the case of a banking company incorporated outside the Provinces of India by the manager or agent of the principal office of the company in the Provinces of India.

(3) Notwithstanding that the balance-sheet of a banking company is under sub-section (1) required to be prepared in a form other than the form marked F in the Third,
Third Schedule to the Indian Companies Act, 1913 (VII of 1913), the requirements of that Act relating to the balance-sheet and profit and loss account of a company shall, in so far as they are not inconsistent with this Act, apply to the balance-sheet or profit and loss account, as the case may be, of a banking company.

(4) The Central Government, after giving not less than three months notice of its intention so to do by a notification in the official Gazette, may from time to time by a like notification amend the Forms set out in the Third Schedule.

30. AUDIT.- (1) The balance-sheet and profit and loss account prepared in accordance with section 29 shall be audited

(a) in the case of a banking company incorporated in a Province of India, by a person duly qualified under any law for the time being in force to be an auditor of companies;

(b) in the case of a banking company incorporated outside the Provinces of India, either by such an auditor as aforesaid, or by a person duly qualified to be an auditor under the law of the country in which the company is incorporated.

(2) The Auditor shall have the powers of, exercise the functions vested in, and discharge the duties and be subject to the liabilities and penalties imposed on, auditors of companies by section 145 of the Indian Companies Act, 1913 (VII of 1913).

(3) In addition to the matters which under the aforesaid Act the auditor is required to state in his report, he shall, in the case of a banking company incorporated in a Province of India, state in his report:-

(a) whether or not the information and explanations required by him have been found to be satisfactory.

(b) whether or not the transactions of the company which have come to his notice have been within the powers of the company;

(c) whether or not the returns received from branch offices of the company have been found adequate for the purposes of his audit;

(d) whether the profit and loss account shows a true balance of profit and loss for the period covered by such account;

(e) any other matter which he considers should be brought to the notice of the shareholders of the company.
31. **SUBMISSION OF RETURNS**: The accounts and balance-sheet referred to in section 29 together with the auditor’s report shall be published in the prescribed manner, and three copies thereof shall be furnished as returns to the Reserve Bank within three months from the end of the period to which they refer:

Provided that the Reserve Bank may in any case extend the said period of three months for the furnishing of such returns by a further period not exceeding three months.

32. **COPIES OF BALANCE SHEETS AND ACCOUNTS TO BE SENT TO REGISTRAR**: (1) Where a banking company in any year furnishes its balance sheet and accounts in accordance with the provisions of section 31 it may, or when it is a private company, shall, at the same time send to the registrar three copies of such balance-sheet and accounts and of the auditor’s report, and where such copies are so sent, it shall not be necessary for the company, to file copies of the balance-sheet and accounts with the registrar as required by sub-section (1) of section 134 of the Indian Companies Act, 1913 (VII of 1913) and such copies so sent shall be chargeable with the same fees and shall be dealt with in all respects as if they were filed in accordance with that section.

(2) When in pursuance of sub-section (2) of section 27 the Reserve Bank requires any additional statement or information in connection with the balance-sheet and accounts furnishes under section 31, the banking company shall, when supplying such statement or information, send a copy thereof to the registrar.

33. **DISPLAY OF AUDITED BALANCE-SHEET BY COMPANIES INCORPORATED OUTSIDE THE PROVINCES OF INDIA**: Every banking company incorporated outside the Provinces of India shall, not later than the first Monday in August of any year in which it carries on business, display in a conspicuous place in its principal office and in every branch office in the Province of India a copy of its last audited balance-sheet and profit and loss account prepared under section 29, and shall keep the copy so displayed until replaced by a copy of the subsequent balance-sheet and profit and loss account so prepared, and every such banking company shall display in like manner copies of its complete audited balance-sheet and profit and loss account relating to its banking business as soon as they are available and shall keep the copies so displayed until copies of such subsequent accounts are available.

34. **ACCOUNTING PROVISIONS OF THIS ACT NOT RETROSPECTIVE**: Nothing in this Act shall apply to the preparation of accounts by a banking company and the audit and submission thereof in respect of any accounting year which has expired prior to the commencement of this Act, and notwithstanding the other provisions of this Act, such accounts shall be prepared, audited and submitted in accordance with the law in force immediately before the commencement of this Act.
35. INSPECTION. (1) Notwithstanding anything to the contrary contained in section 138 of the Indian Companies Act, 1913 (VII of 1913), the Reserve Bank at any time may, time and place, and on being directed so to do by the Central Government shall, cause an inspection to be made by one or more of its officers of any banking company and its books and accounts, and the Reserve Bank shall supply to the banking company a copy of its report on such inspection.

(2) It shall be the duty of every director or other officer of the banking company to produce to any officer making an inspection under sub-section (1) all such books, accounts and other documents in his custody or power and to furnish him with any statements and information relating to the affairs of the banking company as the said officer may require of him within such time as the said officer may specify.

(3) Any person making an inspection under sub-section (1) may examine on oath any director or other officer of the banking company in relation to its business, and may administer an oath accordingly.

(4) The Reserve Bank shall, if it has been directed by the Central Government to cause an inspection to be made, and may, in any other case, report to the Central Government on any inspection made under this section, and the Central Government, if it is of opinion after considering the report that the affairs of the banking company are being conducted to the detriment of the interests of its depositors, may, after giving such opportunity to the banking company to make a representation in connection with the report as, in the opinion of the Central Government, seems reasonable, by order in writing:

(a) prohibit the banking company from receiving fresh deposits;
(b) direct the Reserve Bank to apply under section 38 for the winding up of the banking company;

Provided that the Central Government may defer, for such period as it may think fit, the passing of an order under this sub-section, or cancel or modify any such order upon such terms and conditions as it may think fit to impose.

(5) The Central Government may, after giving reasonable notice to the banking company, publish the report submitted by the Reserve Bank or such portion thereof as may appear necessary.

36. FURTHER POWERS AND FUNCTIONS OF RESERVE BANK. (1) The Bank may:

(a) caution or prohibit banking companies generally
or any banking company in particular against entering
into any particular transaction of class of transactions,
and generally give advice to any banking company;

(b) on a request by the companies concerned and
subject to the provisions of section 46, assist, as in-
termediary or otherwise, in proposals for the amalgama-
tion of such banking companies;

(c) give assistance to any banking company by means
of the grant of a loan or advance to it under clause
(3) of sub-section (1) of section 18 of the Reserve Bank
of India Act, 1934 (II of 1934).

(d) during the course, or after the completion,
of any inspection of a banking company under section 35,
by order in writing, require the company —

(i) to call a meeting of its directors for the
purpose of considering any matter arising in the
course of or out of such inspection or of meeting
an officer of the Reserve Bank to discuss any such
matter;

(ii) to make, within such time as may be speci-
fied in the order, such changes in its management as
the Reserve Bank may consider necessary in consequen-
tial of the state of affairs disclosed during or by the
inspection.

(2) The Reserve Bank shall make an annual report to the
Central Government on the trend and progress of banking in the
country, with particular reference to its activities under
clause (2) of section 17 of the Reserve Bank of India Act, 1934
including in such report its suggestions, if any, for the
strengthening of banking business throughout the country.

(3) The Reserve Bank may appoint such staff at such
places as it considers necessary for the scrutiny of the
returns, statements and information furnished by banking
companies under this Act, and generally to ensure the efficient
performance of its functions under this Act.

PART III.

SUSPENSION OF BUSINESS AND WINDING UP OF BANKING COMPANIES

37. SUSPENSION OF BUSINESS.—(1) The Court may on the
application of a banking company which is temporarily unable to
meet its obligations make an order (a copy of which it shall
cause to be forwarded to the Reserve Bank) staying the commen-
cement or continuance of all actions and proceedings against
the company for a fixed period of time on such terms and
conditions as it shall think fit and proper, and may from time
to time extend the period so however that the total period of
moratorium shall not exceed six months.
(2) No such application shall be maintainable unless it is accompanied by a report of the Reserve Bank indicating that in the opinion of the Reserve Bank the banking company will be able to pay its debts if the application is granted.

Provided that the Court may, for sufficient reasons grant relief under this section even if the application is no accompanied by such report, and where such relief is granted, the Court shall call for a report from the Reserve Bank on the affairs of the banking company, on receipt of which it may either rescind any order already passed or pass such further orders thereon as may be just and proper in the circumstances.

38. WINDING UP BY COURT.—(1) Without prejudice to the provisions contained in section 162 or section 271 of the Indian Companies Act, 1913 (VII of 1913), and without prejudice to its powers under section 37, the Court shall order the winding up of a banking company if it is unable to pay its debts and the Court shall also order the winding up of a banking company if the Reserve Bank applied in this behalf to the Court.

(2) The Reserve Bank may made an application under this section only if it is directed so to do by order under clause (b) of sub-section (4) of section 35 or if the banking company has failed to comply within due time with the demand contained in a notice under sub-section (5) of section 46.

(3) Without prejudice to the provisions contained in section 163 of the Indian Companies Act, 1913 (VII of 1913), a banking company shall be deemed to be unable to pay its debts if it has refused to meet any lawful demand for payment made at any of its offices or branches within two working days if such demand is made at a place where there is an office, demand is made elsewhere, and if the Reserve Bank certifies in writing that the banking company is unable to pay its debts.

(4) A copy of every application by the Reserve Bank (certifies) under sub-section (1) shall be sent by the Reserve Bank to the registrar.

39. RESERVE BANK TO BE OFFICIAL LIQUIDATOR: Notwithstanding anything contained in section 175 of the Indian Companies Act, 1913 (VII of 1913), where in any proceeding for the winding up by the Court of a banking company, an application is made by the Reserve Bank in this behalf, the Reserve Bank shall be appointed as the official liquidator of the banking company in such proceeding.

40. STAY OF PROCEEDINGS: Notwithstanding anything to the contrary contained in section 173 of the Indian Companies Act, 1913 (VII of 1913), the Court shall not make any order staying the proceedings in relation to the winding up of a banking company, unless the Court is satisfied that an arrangement has been made where by the company can pay its depositors in full as their claims accrue.
41. REPORT OF LIQUIDATOR: Notwithstanding anything to the contrary contained in section 177B of the Indian Companies Act, 1913 (VII of 1913), where a winding up order is made in respect of a banking company, the official liquidator shall submit a preliminary report to the Court within two months from the date of the order giving the information required by that section so far as it is available to him, to enable the Court to order the payment of a preliminary dividend if sufficient assets are available.

42. POWER TO DISPENSE WITH MEETINGS OF CREDITORS, ETC.: Notwithstanding anything to the contrary contained in sections 178A and 183 of the Indian Companies Act, 1913 (VII of 1913), the Court may, in the proceedings for winding up a banking company, dispense with any meetings of creditors or contributories or with the appointment of a committee of inspection if it considers that no object will be secured thereby sufficient to justify the delay and expense.

43. BOOKED DEPOSITORS' CREDITS TO BE DEEMED PROVED: Notwithstanding anything to the contrary contained in section 189A of the Indian Companies Act, 1913 (VII of 1913), the Court shall presume that the amounts shown in the books of a banking company as standing to the credit of depositors are proved without requiring further proof from the depositors concerned unless the official liquidator shows that there is reason for doubting any particular entry.

44. RESTRICTION ON VOLUNTARY WINDING UP: Notwithstanding anything to the contrary contained in section 203 of the Indian Companies Act, 1913 (VII of 1913), no banking company which holds a licence granted under section 22 may be voluntarily wound up unless the Reserve Bank certifies in writing that the company is able to pay in full all its debts to its creditors as they accrue, and without prejudice to the provisions contained in sections 218 and 220 of that Act, the Court shall on the application of the Reserve Bank, order the winding up of the company by the Court if at any stage during the voluntary winding up proceedings the company is not able to meet such debts as they accrue.

45. RESTRICTION ON AMALGAMATION, ETC.: Notwithstanding anything contained in any law for the time being in force

(a) no Court shall sanction a compromise or arrangement between a banking company and its creditors or any class of them or between such company and its members or any class of them, unless the compromise or arrangement is certified by the Reserve Bank as not being detrimental to the interests of the depositors of such company, and

(b) no banking company shall enter into any agreement or arrangement for, or be a party to, any scheme for the scheme for the amalgamation of such company with any other banking company without the previous sanction in writing of the Reserve Bank.
46. PENALTIES. — (1) Whoever in any return, balance-sheet of any document required by or under or for the purposes of any provision of this Act, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(2) If any person fails to produce any book, account or other document or to furnish any statement or information which under sub-section (2) of section 35 it is his duty to produce or furnish, or to answer any question relating to the business of a banking company which he is asked by an officer making an inspection under that section, he shall be punishable with a fine which may extend to five hundred rupees in respect of each offence, and if he persists in such refusal, to a further fine which may extend to fifty rupees for every day during which the offence continues.

(3) If any deposits are received by a banking company in contravention of an order under clause (a) of sub-section (4) of section 35, every director or other officer of the banking company, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent it, place without his knowledge or that he exercised all due diligence to prevent it shall be deemed to be guilty of such contravention and shall be punishable with a fine which may extend to twice the amount of the deposits so received.

(4) If any other provision of this Act is contravened, or if any default is made in complying with any requirement of this Act or of any order made thereunder, every director and other officer of the banking company who is knowingly a party to the contravention or default shall be punishable with a fine not exceeding five hundred rupees, and where the contravention or default is a continuing one, with a further fine not exceeding fifty rupees for every day during which it continues.

(5) Without prejudice to the provisions of sub-section (4) if any banking company fails to comply with the provisions of section 24 or section 25, the Reserve Bank shall by notice in writing make a demand on the Banking company to comply with the said provisions within thirty days from the receipt of the notice, and if the banking company fails so to the Reserve Bank may apply under section 33 for the winding up of the banking company.
47. Cognizance of Offences: No Court shall take cognizance of any offence punishable under section 46 except upon complaint in writing made by an officer of the Reserve Bank generally or specially authorised in writing in this behalf by the Reserve Bank, and no Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any such offence.

48. Application of Fines: A Court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the proceedings, or in or towards the rewarding of the person on whose information the fine is recovered.

49. Special Provisions for Private Banking Companies: The exemptions, whether express or implied, in favour of a private company in section 17, 77, 83B, 86B, 91B, and 91D and sub-section (5) of section 144 of the Indian Companies Act 1913 (VII of 1913), shall not operate in favour of a private company which is a banking company.

50. Certain Claims for Compensation Barred: No person shall have any right whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any of the provisions contained in sections 10 and 16 or by reason of the compliance by a banking company with any order given to it under sub-clause (ii) of clause (d) of sub-section (1) of section 36.

51. Application of Certain Provision to the Imperial Bank of India: Without prejudice to the provisions of the Imperial Bank of India Act, 1920, (XLVII) of 1920, the provisions of section 10, 13 to 17, 19 to 21, 23, 31, 34 to 42, 50 and 52 shall also apply, so far as may be to and in relation to the Imperial Bank of India as they apply to and in relation to other banking companies.

52. Power of Central Government to Make Rules: (1) The Central Government may, after consultation with the Reserve Bank make rules to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act and all such rules shall be published in the official Gazette.

(2) In particular, and without prejudice to the general of the foregoing power, such rules may provide for the detail to be included in the returns required by this Act and the manner in which such returns shall be submitted.

(3) All rules made under this section shall be subject to the condition of previous publication, and the date to be specified under clause (3) of section 23 of the Central Clauses Act 1897 (X of 1897) shall not be less than six months from the date on which the draft of the proposed rules was published.
Provided that in respect of the first occasion on which rules are made under this section, the provisions of this sub-section shall not apply.

53. POWER TO EXEMPT IN CERTAIN CASES: The Central Government may, on the recommendation of the Reserve Bank declare, by notification in the official gazette, that any or all of the provisions of this Act shall not apply to any banking company or to any class of banking companies either generally or for such period as may be specified.

54. PROTECTION OF ACTION TAKEN UNDER ACT: (1) No suit or other legal proceeding shall lie against the Central Government, the Reserve Bank or any officer for anything which is in good faith done or intended to be done in pursuance of this Act.

(2) Save as otherwise, expressly provided by or under this Act, no suit or other legal proceeding shall lie against the Central Government, the Reserve Bank or any officer for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act.

55. AMENDMENT OF ACT II OF 1934: The Reserve Bank of India Act, 1931 (II of 1934) shall be amended in the manner specified in the fourth column of the First Schedule and the amendments to section 18 thereof as specified in the said Schedule shall be deemed to have had effect on the from the 20th day of September 1947.

56. REPEALS:— (1) The enactments mentioned in the third column of the Second Schedule shall be repealed to the extent specified in the fourth column thereof.

(2) Notwithstanding the repeal by this Act of (any third colu) and Ordinance mentioned in the Second Schedule anything done or any action taken in the exercise of any power conferred by any Ordinance so repealed, shall for all purposes be deemed to have been done or taken in the exercise of powers conferred by this Act as if this Act had been in force on the day such thing was done or such action was taken.
1934 II The Reserve Bank of (1) In section 17, to clause (15A), the India Act, 1934. Following shall be added, namely: -

"and under the Banking Companies Act, 1949".

(2) (a) Section 18 shall be renumbered as sub-section (1) of that section and in subsection (1), as so renumbered -

(i) in clause (3) after the words "of that section", the following words shall be added, namely -

"or, when the loan or advance is made to a banking company, as defined in the Banking Companies Act, 1949, against such other form of security as the Bank may consider sufficient";

(ii) for the words "under this section", wherever they occur, the words "under this sub-section" shall be substituted;

(b) After sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:

"(2) Where a banking company to which a loan or advance has been made under the provisions of clause (3) of sub-section (1) is wound up, any sums due to the Bank in respect of such loan or advance shall, subject only to the claims, if any, of any other banking company in respect of any prior loan or advance made by such banking company against any security, be a first charge on the assets of the banking company".
In section 42, for sub-section (6) the following sub-section shall be substituted, namely:

"(6) The Bank shall, save as hereinafter provided, by notification in the Gazette of India:

(a) direct the inclusion in the Second Schedule of any bank not already so included which carries on the business of banking in any Province of India and which

(i) has a paid-up capital and reserves of an aggregate value of not less than five lakhs of rupees and satisfies the Bank that its affairs are not being conducted in a manner detrimental to the interests of its depositors, and

(iii) is a company as defined in clause (2) of section 2 of the Indian Companies Act, 1913 (VII of 1913) or a corporation or a company incorporated by or under any law in force in any place outside the Provinces of India.

(b) direct the exclusion from that Schedule of any scheduled bank:

(i) the aggregate value of whose paid-up capital and reserves becomes at any time less than five lakhs of rupees, or

(ii) which is, in the opinion of the Bank after making an inspection under section 35 of the Banking Companies Act, 1949, conducting its affairs to the detriment of the interests of its depositors, or

(iii) which goes into liquidation or otherwise ceases to carry on banking business:

Provided that the Bank may, on application of the scheduled bank concerned and subject to such conditions if any, as it may impose, defer the making of a direction under sub-clause (i) or sub-clause (ii) of clause (b) for such
period as the Bank considers reasonable to give the scheduled bank an opportunity of increasing the aggregate value of its paid-up capital and reserves to not less than five lakhs of rupees or, as the case may be, of removing the defects in the conduct of its affairs;

(c) alter the description in that scheduled whenever any scheduled bank changes its name.

Explanation: - In this sub-section the expression "value" means the real or exchangeable value and not the nominal value which may be shown in the books of the bank concerned; and if any dispute arises in computing the aggregate value of the paid-up capital and reserves of a bank, a determination thereof by the Bank shall be final for the purposes of this sub-section.

THE SECOND SCHEDULE

(See Section 56).

REPEALS.

<table>
<thead>
<tr>
<th>Year</th>
<th>No.2</th>
<th>Short title</th>
<th>Extent of repeal</th>
</tr>
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<tbody>
<tr>
<td>1913</td>
<td>VII</td>
<td>The Indian Companies Act, 1913.</td>
<td>The whole of Part XA.</td>
</tr>
<tr>
<td>1946</td>
<td>XXVII</td>
<td>The Banking Companies (Restriction of Branches) Act, 1946.</td>
<td>The whole.</td>
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<td>1946</td>
<td>IV</td>
<td>The Banking Companies (Inspection) Ordinance 1946.</td>
<td>The whole.</td>
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<tr>
<td>1948</td>
<td>XXV</td>
<td>The Banking Companies (Control) Ordinance, 1948.</td>
<td>The whole.</td>
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THE THIRD SCHEDULE
(See Section 29)
FORM A
FORM OF BALANCE-SHEET.

CAPITAL AND LIABILITIES

CAPITAL (a)

Authorised Capital
Shares of Rs. each

Issued Capital.....Shares of Rs. each

Subscribed Capital....... Shares of Rs....each

Amount called up at Rs. per share
Less calls unpaid

RESERVE FUND (b)

Fixed Deposits
Savings Bank Deposits,
Current Accounts and Continency (unadjusted) accounts.

BORROWING FROM OTHER BANKS, AGENTS, ETC.
(i) in the Provinces of India
(ii) outside the Provinces of India

PROPERTY AND ASSETS.

CASH:

In hand and with Reserve Bank (including foreign currency notes).

Balances with other Banks (showing whether on deposit or current account):

(i) in the Provinces of India
(ii) outside the Provinces of India

MONEY AT CALL AND SHORT NOTICE

BILLS DISCOUNTED AND PURCHASED(e) (Other than Treasury Bills of the Central and Provincial Governments)

(i) payable in any Province of India
(ii) payable outside the Provinces of India

INVESTMENTS (stating mode of valuation, e.g., cost or market value). (f)

(i) Securities of the central and Provincial Governments and Trustee securities, including Treasury Bills of the Central and Provincial Governments.
(ii) Shares (classifying into preference, ordinary, deferred and other classes of shares and showing separately shares fully paid up and partly paid up).
Particulars:
(i) Secured (stating the nature of security).
(ii) Unsecured ...........

BILLS PAYABLE
BILLS FOR COLLECTION BEING
BILLS RECEIVABLE AS
per contra:

(i) payable in any Province of India.....
(ii) payable outside the Provinces of India.

OTHER LIABILITIES (TO BE SPECIFIED (c)

ACCEPTANCES, ENDORSEMENTS AND OTHER OBLIGATIONS per contra.

(i) Debts considered good in respect of which the bank is fully secured.
(ii) Debts considered good for which the bank holds no other security than the debtors' personal security.
(iii) Debts considered good, secured by the personal liabilities of one or more parties in addition to the personal security of the debtors.

PROFIT AND LOSS;

(v) Debts due by directors or officers of the bank or any of them either severally or jointly with any other persons.

LESS APPROPRIATION THEREOF

(vi) Debts due by companies or firms in which the directors of the bank are interested as directors, partners or managing agents or, in the case of private companies, as members.
(vii) Maximum total amount of loans, including temporary advances made at any time during the year to directors or managers or officers of the company.

(iii) Debentures or Bonds.
(iv) Other investments (to be classified under proper heads)
(v) Gold.

LOAN, ADVANCES, CASH CREDITS AND OVERDRAFTS.
(other than bad and doubtful debts for which provision has been made to the satisfaction of the auditors).

(i) in the Provinces of India.
(ii) outside the Provinces of India.
(viii) Maximum total amount of
loans including temporary advances
granted during the year to the
companies or firms in which the
directors of the bank are interested
as directors, partners or managing
agents or, in the case of private
companies, as members.

(ix) Bills from banks:
BILLS FOR COLLECTION BEING
BILLS RECEIVABLE
As per Contra;
(i) payable in any Province of India
(ii) Payable outside the Province
of India.

ACCEPTANCES, ENDORSEMENTS AND OTHER
OBLIGATIONS per contra

PREMISES LESS DEPRECIATION (g)
FURNITURE AND FIXTURES LESS
DEPRECIATION (g)

OTHER ASSETS, INCLUDING SILVER
(to be specified) (h)

NON-BANKING ASSETS ACQUIRED IN
SATISFACTION OF CLAIMS (stating
mode of valuation (i)

PROFIT AND LOSS

----------
Total       Total

NOTES:

(a) Capital:
(i) The various classes of capital, if any, should be distinguished.
(ii) Shares issued as fully paid-up pursuant to any contract without
payments being received in cash should be stated separately.
(iii) Where circumstances permit, issued and subscribed capital and
amount called up may be shown as one item, e.g., Issued
and Subscribed Capital......Shares of Rs........paid up.
(iv) In the case of banking companies incorporated outside the
Provinces of India, the amount of deposit kept with the
Reserve Bank of India under sub-section (2) of section 11
of the Banking Companies Act, 1949, should be shown under
this head, the amount, however, should not be extended to
the outer column.

(b) The reserve fund maintained under section 17 of the said Act should
be shown separately.
(c) Under this heading are to be included such items as the following to be shown under separate headings suitably described: pensioner insurance funds, unclaimed dividends, advance payments and unexpired discounts, liabilities to subsidiary companies and any other liabilities.

(d) These should be classified under the following categories:
(i) Claims against the banking company not acknowledged as debts.
(ii) Money for which the bank is contingently liable showing separately the amount of any guarantee given by the banking company on behalf of directors or officers.
(iii) Arrears of cumulative preference dividends.
(iv) Liability on Bills of Exchange re-discounted.
(v) Liability on account of outstanding Forward Exchange Contracts.

(e) Particulars as under "Loans, Advances, Cash Credits and Overdrafts" are to be shown under this heading.

(f) Where the value of the investments shown in the outer column of the balance-sheet is higher than the market value, the market value shall be shown separately in brackets.

(g) Bank premises wholly or partly occupied for the purposes of business should be shown against "Premises less depreciation". In the case of fixed capital expenditure, the original cost, and additions thereto and deductions therefrom during the year should be stated, as also the total depreciation written off. Where sums have been written off on a reduction of capital or revaluation of assets, every balance-sheet after the first balance-sheet subsequent to the reduction or revaluation should show the reduced figures with the date and amount of reduction made. Furniture, fixtures and other assets which have been completely written off need not be shown in the balance-sheet.

(h) Under this heading may be included such items as the following, which must be shown under headings suitably described: preliminary, formation and organisation expenses, development expenditure, commission and brokerage on shares, interest accrued on investments but not collected, investments in shares of subsidiary companies and any other assets.

(i) Value shown shall in no case exceed market value.
FORM B

FORM OF PROFIT AND LOSSES ACCOUNT.

Profit and Loss Account for the Year ended December.

EXPENDITURE

Interest paid on deposits
Salaries and allowances (showing separately salaries and allowances to managing director or manager).
Directors' Fees and allowances.
Local Committee members' fees and allowances.
Provident Fund.
Rent, Taxes, Insurance, Lighting etc.,
Law Charges.
Postage, Telegrams and Stamps.
Auditors' Fees.
Depreciation on Bank's Property.
Repairs to Bank's Property.
Stationery, Printing, Advertisement etc.
Loss from sale of or dealing with non-banking assets.
other Expenditure.
Balance of Profit.

INCOME (LESS PROVISION MADE DURING THE YEAR FOR BAD AND DOUBTFUL DEBTS).

Interest and Discount.
Commission, Exchange and Brokerage.
Rents.
Transfer from contingencies amount.
Profit made on sale of investments, gold and silver, land, premises and other assets.
Profit made on revaluation of investments, gold and silver, land and premises and other assets.
Income from non-banking assets and profit from sale of or dealing with such assets.
Other receipts.
Loss (if any).

Total

Loss (if any).

Total

E.V.K. SUNDARAM,
SECG. TO THE GOVT. OF INDIA.

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