Prevention of Money Laundering Act, 2002

Minimum and Maximum Punishment under Act-RigorousImprisonment for not less than 3 years, may be extend to 7 years (However, Offence specified under paragraph 2 of Part- A of Schedule, extends to 10 Years) and Fine which may extended to Rs. 5 Lakh.

Obligation of Banking Companies, FI, Intermediaries to maintain records (Section 12)-

1. Maintain all the records of transactions, the nature and value of which may be prescribed, **single or series of transactions integrally connected to each other, such series of transactions take place within 1 month. (Shall be maintained for a period of 10 years from date of transactions between the clients and banking company or FI or intermediary, as case may be.)
2. Furnish the information stated above to director within such time as may be prescribed
3. Verify and maintain the records of the identity of all its clients, in such manner as may be prescribed (maintain for 10 years from the cessation of transaction)
4. Where principle officer of banking company, FI, Intermediary as case maybe has reason to believe that transactions (**) have been valued below the prescribed value so as to defeat the provisions of this section, such officer shall furnish information of such transaction to the Director within the prescribed time.

Are the offences under the Act cognizable and bailable?

No person accused for offence of an offence punishable for term of imprisonment of more than 3 years shall be released on bail or on his own bond unless:

1. The public prosecutor has been given an opportunity to oppose the application for such release; and
2. Where public prosecutor opposes the application, the court is studied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

Where person who is under the age of 16 years is woman or is a sick, he may be released on bail; if the special court so directs.

Notwithstandinganything contained in the code of criminal procedure or any other act, no police officer shall investigate into an offence under this act unless specifically authorized, by Central Government by general or special order, and subject to conditions as may be prescribed.

The Banking Regulation Act, 1949

Disposal of non- Banking Assets (Section 9) - No Banking company shall hold any immovable property howsoever acquired, except such as required for its own use, for any period exceeding 7 years from acquisition thereof 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. Reserve Bank may in any particular case extend the aforesaid period of 7 years by such period not exceeding 5 years where it is satisfied that such extension would be in interest of depositors of the banking company.

Reserve Fund to be maintained by Banking Company (Section 17) - out of profit of each year, and before dividend is declared, transfer to reserve fund a sum equivalent to not less than 20% of such profit. *Exemption may be provided to banking company by Central Government on adequacy of paid up share capital and reserves with recommendation of RBI for such period as maybe specified in order.But no order if Reserves along with share premium is not less than (means greater than) paid up share capital of the banking company.*

Accounts and Balance sheet- Every banking company, prepare balance sheet and profit and loss account as on last working day of accounting year, in form set out in the third schedule.Signed by manager, principle and (incase director in company more than 3), 3 directors. Balance sheet of the banking company is required to be prepared other than the for set out in schedule III of Companies act, 2013, the requirements of balance sheet and profit and loss account of the company shall, in so far as they are not inconsistent with this act and required to be prepared as per provisions of the banking act.

Audit- By person duly qualified under any law for the time being in force, Prior Approval of RBI required before appointment, re-appointment, or removal of auditor, Special audit of the accounts of the banking company may be directed by RBI in the public

Interest & depositors. RBI may appoint person as above or auditor of the company to audit accounts of the company or such class of the transactions as may be directed by the Reserve Bank of India. Auditor shall comply with the directions and make report of such audit to Reserve Bank of India and forward a copy thereof to the company. Special auditExpenses - by Banking Co. &Duties, powers, functions and Liabilities as per Section 141 of Companies Act, 2013.

Disclosure Requirement in Audit Report-

- ✓ Information and explanation required by him- Satisfactory.
- ✓ Transactions of the company come in to notice have been within powers.
- ✓ Returns received from branch offices are adequate for the purpose of audit
- ✓ Profit and Loss shows a true balance of Profit and Loss for the period
- ✓ Other matter which should be brought to the notice of the SH of the company.

Submission of Returns to RBI- Balance sheet + Accounts + Audit Report in 3 copies shall be furnished as returns within 3 months (extension not exceeding 3 months)from the end of the period to which they belong. And at the same time send ***Registrar***3 copies of Balance sheet + Accounts + Audit Report, if send not necessary to file with registrar in case of public company and in case of private company shall be filed with prescribed fees as applicable.

Inspection- Order inspection by RBI Suo motu or on a direction of CG, by one or more officers for Inspection of Banking Company and Its Books of Accounts. RBI shall supply/forward the copy of its inspection report to Banking Company. It shall be the Directors, officers and employees of the banking company to produce, 1. All such books, accounts and other documents in his custody relating to affairs of the company as may be required by inspecting officer within time as may be prescribed. Examination on oath.

Powers of RBI to give directions- When (Purpose)? – *Time to time, BC bound to comply, Modification or cancellation*

- ✓ In interest of public or
- ✓ In interest of Banking Policy, or
- ✓ To prevent the affairs of any banking company being conducted in the manner detrimental to the interest of depositor or in not interest of the banking, or
- ✓ To secure proper management of any banking company generally.

Appointment of Additional Director by RBI- If necessary, by order in writing for tenure not exceeding 3 year which may further extend not exceeding 3 years in case RBI may specify. Not requirement of qualification shares. Not to be counted in total number of director.

Power of CG to acquire undertakings of Banking Companies in Certain Cases-

- ✓ In Interest of the depositors of such banking company, or
- ✓ In Interest of Banking policy, or
- ✓ For the better provision of credit etc.

In case CG + RBI satisfied that the banking company has on one or more occasions failed to comply with the direction given by it, so far as such directions relate to banking policy, or being managed in a manner detrimental to the interest of the depositors.

CG in consultation with RBI, notify by order, for acquisition of such banking company. *Opportunity to show cause give (otherwise no acquisition).* All the assets and liabilities transfer to CG from the appointed day. Continuation of suits and other proceedings even after transfer.

Compensation to be given to Share Holders of the Acquired Bank

To- Registered share holders

Determination of Compensation- by determined by CG in Consultation with RBI according to provisions contained in Fifth schedule

Re- Determination- on request of not less than *¼ th* in number of shareholders not less than *¼ th* in the value of share capital of the acquired bank. CG shall have to refer matter to tribunal for decision. Compensation determined by tribunal shall be final and binding on all parties concerned.