UNIT – 5

Lending and Recent Trends

Lending Principles • Securities • Recovery • DRT • Technology • Digital Banking

Banking Law

SYNOPSIS

Unit Overview

This unit examines the principles of good lending, securities for advances, repayment and recovery mechanisms including Debt Recovery Tribunals, and the recent trends in the Indian banking system driven by technology – ATMs, internet banking, smart cards, credit cards, automation and the legal issues arising from digital banking.

LEARNING OBJECTIVES

What You Will Learn

01 Lending Principles

Understand the canons of good lending

02 Securities

Identify kinds of securities and their relative merits

03 Recovery

Explain repayment terms and recovery mechanisms

04 DRT

Describe the role and procedure of Debt Recovery Tribunals

05 Technology

Analyse the impact of IT and automation on banking

06 Legal Issues

Identify legal challenges of digital banking and cards

LENDING PRINCIPLES

Good Lending Principles

Banks must lend on sound principles to protect depositors' money and maintain systemic stability. The classic canons remain relevant even in the digital age.

Safety	Security and repayment capacity of the borrower
Liquidity	Ability to recover or realise the advance when needed
Profitability	Adequate return commensurate with risk
Purpose	Productive purpose preferred over speculative
Diversification	Avoid concentration in one sector or borrower

Lending to Poor Masses

Priority Sector	Mandatory targets for agriculture, MSME, education, housing, weaker sections
Micro Finance	SHG-bank linkage, micro-finance institutions
Financial Inclusion	PMJDY, small accounts, simplified KYC
Challenges	High transaction cost, credit risk, financial literacy
Regulatory	RBI guidelines on priority sector and financial inclusion

Securities for Advances – Kinds and Merits

Personal Security	Promissory note, guarantee – simple but depends on creditworthiness
Pledge	Goods or documents of title – possession with banker
Hypothecation	Goods remain with borrower; charge is floating or fixed
Mortgage	Immovable property – legal or equitable
Assignment	Actionable claims, insurance policies, book debts
Merits/Demerits	Liquidity, marketability, enforceability, cost of realisation differ

Repayment of Loans – Interest and Penalty

Rate of Interest	As agreed; subject to usury laws and RBI directives
Protection against Penalty	Unreasonable penal interest can be struck down
Default	Consequences – recall, enforcement of security, legal action
Restructuring	Framework for stressed assets under RBI guidelines
Moratorium	Temporary relief in extraordinary situations

RECOVERY

Default and Recovery Mechanisms

SARFAESI	Securitisation and Reconstruction of Financial Assets – enforcement without court
DRT	Debt Recovery Tribunals under RDDBFI Act 1993
IBC	Insolvency and Bankruptcy Code – corporate resolution
Civil Suit	Traditional recovery through civil courts
Compromise	One-time settlement and negotiated recovery

DRT

Debt Recovery Tribunal

The Recovery of Debts Due to Banks and Financial Institutions Act, 1993 created specialised tribunals for speedy recovery of debts above the prescribed threshold.

Jurisdiction	Debts of banks and financial institutions above Rs 20 lakh (threshold revised)
Procedure	Summary procedure, limited adjournments
Powers	Attachment, sale, appointment of receiver, arrest in certain cases
Appeal	Debt Recovery Appellate Tribunal
Interface	SARFAESI and IBC have reduced pure DRT caseload but DRT remains important

TECHNOLOGY

New Technology and Automation

Core Banking	Centralised processing enabling anywhere banking
ATM	Automated Teller Machines – cash and basic services
Internet Banking	Account access, transfers, bill payments online
Mobile Banking	Apps and USSD-based services
AI & Analytics	Credit scoring, fraud detection, customer service chatbots

Credit Cards, Smart Cards and Internet

Credit Cards	Revolving credit, merchant acceptance, charge-back rules
Debit Cards	Linked to account balance
Smart Cards	Chip-based security, multi-application potential
Legal Issues	Unauthorised transactions, liability allocation, data protection
RBI Guidelines	Limited liability of customer for unauthorised electronic transactions

Legal Aspects of Digital Banking

Contract	Click-wrap and electronic contracts under IT Act
Authentication	Digital signatures, biometrics, two-factor authentication
Liability	RBI circular on customer liability in unauthorised transactions
Data Protection	Customer data privacy and cybersecurity obligations
Evidence	Electronic records admissible under IT Act and Bankers' Books Evidence Act

LANDMARK

Important Cases and Developments

SARFAESI Cases	Supreme Court on the constitutional validity and procedure
DRT	Cases on jurisdiction, limitation and powers of the Tribunal
Electronic	Liability for phishing and unauthorised ATM/internet transactions
IBC	Intersection of banking recovery with insolvency resolution

SALIENT

Salient Features of Modern Lending & Technology

Prudence	Safety, liquidity, profitability still guide lending
Security	Multiple forms – personal, pledge, hypothecation, mortgage
Recovery	Multi-track – SARFAESI, DRT, IBC, civil courts
Digital	Technology has transformed delivery and risk management
Customer Protection	RBI rules on liability and grievance redressal
Inclusion	Technology enables outreach to underserved segments

ESSENTIALS

Core Points

Lending	Safety, liquidity, profitability, purpose, diversification
Securities	Pledge, hypothecation, mortgage, assignment, guarantee
Recovery	SARFAESI, DRT, IBC are the main modern tools
DRT	Specialised tribunal for bank debt recovery
Digital	ATM, internet, mobile, cards – new legal issues
Liability	Customer liability limited for unauthorised electronic transactions

DEEP DIVE

SARFAESI vs DRT vs IBC

SARFAESI allows secured creditors to enforce security without court intervention. DRT is a specialised forum for recovery of debts. IBC provides a time-bound collective resolution process for corporate debtors. Banks now choose the most effective combination depending on the nature of the asset and the borrower.

HIGHLIGHTS

Key Highlights

Principles	Safety, liquidity, profitability, national interest
Securities	Relative merits of different forms of security
Recovery	SARFAESI + DRT + IBC form the modern recovery architecture
Technology	Core banking, UPI, cards, AI – legal framework still evolving
Customer	Strong protection against unauthorised electronic transactions
Future	Open banking, CBDC, data protection law will shape the next phase

SUMMARY POINTS

Must-Remember Points

- Good lending rests on safety, liquidity, profitability and social purpose.
- Securities include personal guarantees, pledge, hypothecation, mortgage and assignment.
- Recovery mechanisms have been modernised through SARFAESI, DRT and IBC.
- Technology has transformed banking delivery but created new legal issues around liability, data and authentication.
- RBI has put in place strong customer-protection rules for electronic transactions.
- The future of banking law will be shaped by digital innovation and data regulation.

SUMMARY

Key Takeaways

1. Lending principles remain the foundation of sound banking.
2. Multiple recovery tools now exist – banks must choose strategically.
3. Digital banking requires parallel attention to technology and law.
4. Customer protection in electronic transactions is a priority for regulators.
5. Banking law continues to evolve rapidly with technology and financial innovation.

This completes the five units of Banking Law.