

Banking Laws (Amendment) Act, 2025 – 1. Introduction: Why the Amendment Was Needed

India's banking system has modernised rapidly with digital tools, wider services and global competition. But many banking laws remained outdated. The 2025 Amendment attempts to simplify compliance, improve governance, and protect depositors. At the same time, worries persist that giving banks greater autonomy—such as control over auditor fees and reduced reporting—may weaken regulatory safeguards, especially in cooperative banks which already face governance problems.

2. Historical Background and Need for Reform

India's banking history has swung between expansion and crises.

- Nationalisation (1960s–70s) expanded rural credit but created bureaucracy and political interference.
- Post-1990s liberalisation improved competition and technology, yet laws stayed old. This mismatch between modern banking operations and outdated regulations became visible in failures like the PMC Bank crisis (2019), where officials hid over ₹6,500 crore in bad loans using fake accounts. Weak oversight and governance failures shook public trust, proving the need for updated legal safeguards.

3. Key Amendments and Their Implications

A. Higher Threshold for “Substantial Interest”

The limit rises from ₹5 lakh to ₹2 crore.

- Aim: reduce unnecessary scrutiny of small stakeholders.
- Concern: governance studies show that mid-level stakeholders often play a vital role in accountability; excluding them may weaken supervision.

B. Longer Tenure for Cooperative Bank Directors

Director tenure extends from 8 to 10 years.

- Aim: ensure leadership stability.
- Issue: RBI imposed 264 penalties on cooperative banks in 2024–25, showing persistent governance flaws.
- The PMC Bank scandal shows how entrenched leadership without oversight can hide risks, freeze withdrawals, and harm depositors.

Stronger fit-and-proper checks and independent supervision remain essential.

C. Autonomy to Decide Auditor Fees

Banks can now decide how much auditors are paid.

- Aim: attract competent auditors, reduce information gaps.
- Danger: without mandatory auditor rotation or transparency rules, auditors may become dependent on management, harming independence.
- Example: Satyam–PwC case, where long-term auditor dependence helped conceal fake revenues and inflated balances.

Reforms must include rotation, fee disclosure, and strict penalties for negligent audits.

D. Less Frequent Reporting Requirements

Reporting may shift from weekly to monthly/quarterly.

- Advantage: reduced compliance burden.
- Risk: fewer reports weaken early-warning signals for regulators.

Solution: adopt real-time regtech systems, monitored by independent audit teams.

Indonesia's example:

Its regulator (OJK) uses advanced supervisory technology—like Markov-switching models—to detect early signs of distress even with less frequent reporting. India can adopt similar analytical systems to maintain depositor safety while easing reporting norms.

Law & Economics Analysis: Understanding the Regulatory Trade-Off

The Amendment reflects the classic tension between reducing compliance costs and preserving strict oversight. While simpler procedures can boost efficiency and innovation, they may weaken essential financial safeguards.

- Auditor fee autonomy, without rotation or disclosure rules, increases the risk of regulatory capture, where auditors align with management instead of acting independently.

- Longer terms for cooperative bank directors may entrench leadership, reduce accountability, and encourage risky lending—patterns seen in several rural banking sectors.
- Reduced reporting frequency saves costs but weakens early-warning signals unless regulators adopt real-time, technology-driven oversight.

A balanced regulatory design must therefore combine streamlined compliance with strong transparency and robust controls to prevent past failures from resurfacing.

Jurisprudential & Constitutional Concerns

The Amendment gives wide discretionary powers to the RBI without clear procedural safeguards, raising issues under the rule of law principles from *Maneka Gandhi v. Union of India*, which bar arbitrary administrative action. Further, the absence of defined fiduciary duties for directors and auditors sustains principal-agent problems, unlike frameworks such as the UK's Senior Managers and Certification Regime, which assigns personal accountability backed by sanctions.

An equity issue also arises: the Amendment does not provide special protection for vulnerable cooperative bank depositors. This raises concerns under Article 14, as unequal treatment may deepen socio-economic disadvantage.

Comparative Lessons & Global Best Practices

1. Mandatory Auditor Rotation & Transparency

Introduce auditor rotation and require public disclosure of fees to strengthen independence. The UK's SMCR shows that clear responsibility reduces auditor capture.

The Satyam–PwC scandal in India proves that long-tenured auditors can overlook massive fraud. Efficiency cannot override rigorous audit scrutiny.

2. Regtech-Enabled Real-Time Supervision

Mandate use of real-time regulatory technology monitored by an independent audit team.

Indonesia's OJK uses Markov-switching models and predictive analytics to detect distress even with relaxed reporting.

The IndusInd Bank microfinance misreporting case (₹2,600+ crore discrepancies) shows India's vulnerability when oversight is weak.

Regtech ensures efficiency does not compromise risk monitoring.

3. Strong Cooperative Bank Governance

Link director tenure extensions to independent fitness and propriety checks.

Brazil's rural banking model—with board diversity and compulsory external audits—demonstrates how structural reforms reduce capture.

The PMC Bank crisis (₹6,500 crore concealed loans) and ongoing RBI action (196 penalties in 2023–24; 15 licence cancellations in 2023) highlight the urgent need for governance reforms in Indian cooperative banks.

4. Data-Driven Continuous Monitoring

Set up continuous, analytics-driven supervision to track governance health and emerging risks.

Examples from Indonesia and Brazil show how predictive tools prevent blind spots and stop fraud from escalating.

5. Financial Literacy & Stakeholder Empowerment

Promote depositor awareness of rights and risks to reinforce market discipline.

Experiences from Brazil and the UK prove that informed depositors act as an extra layer of oversight, ensuring that operational efficiency does not disadvantage vulnerable stakeholders.