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Decoding the Banking Laws (Amendment) Bill, 2024: Governance, Autonomy, and Financial Inclusion

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ABSTRACT

The Banking Laws (Amendment) Bill, 2024, introduces critical reforms to modernize India's banking framework, address regulatory gaps, and enhance financial stability. It proposes amendments to key legislations governing banking institutions, refining governance, capital infusion, and resolution mechanisms provisions. Strengthening the Reserve Bank of India's regulatory oversight, the bill seeks to bolster prudential norms and crisis management frameworks, ensuring resilience against financial disruptions. Additionally, it redefines the interplay between banking laws and financial sector reforms, aligning regulatory structures with contemporary economic imperatives. By balancing the interests of financial institutions, regulators, and consumers, the amendments strive to foster a more transparent, accountable, and growth-oriented banking ecosystem. The discussion evaluates the implications of these changes on financial inclusion, economic growth, and institutional accountability while also addressing potential challenges in implementation. Through a comparative lens, the analysis considers global best practices and assesses the bill's effectiveness in reinforcing the structural integrity of India's banking sector. The proposed reforms hold significant implications for regulatory efficiency, consumer protection, and financial stability, shaping the trajectory of India's banking landscape in an evolving economic environment.

***Keywords**: Banking Laws Amendment, Regulatory Framework, Financial Institutions, Banking Reforms.*

I. INTRODUCTION

The Indian banking sector is undergoing transformative changes with the passage of the Banking Laws (Amendment) Bill, 2024[3]. The bill introduces structural reforms in cooperative banks, modifies public sector bank governance, and expands the scope of banking regulations. One of its key provisions allows directors of Central Cooperative Banks (CCBs) to serve

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[3] *Id.*

simultaneously on the boards of State Cooperative Banks (SCBs), a move that critics argue increases central government control at the expense of state autonomy.[4] Additionally, the amendment raises the financial qualification threshold for directors from ₹5 lakh to ₹2 crore or 10% of the paid-up capital. This change will allow more individuals to qualify as directors in banking companies. It will also reduce regulatory scrutiny for smaller investments.[5] However, this move may come across as one that restricts participation to wealthier individuals and potentially reduces the sector's inclusivity.

Another contentious aspect of the bill is the reduction of the government's minimum stake in Public Sector Banks (PSBs) from 51% to 26%. Historically, government ownership in PSBs has ensured financial inclusion and state-driven economic objectives.[6] The dilution of this stake raises concerns about privatization, reduced accountability, and a shift toward profit-oriented banking that may neglect rural and marginalized communities.[7]

The bill also grants banks autonomy in deciding auditor remuneration, raising concerns about conflicts of interest and weakened regulatory oversight.[8] Notably absent from the legislation are measures to combat cybercrime and financial fraud, despite the increasing frequency of digital banking breaches.[9] A balanced policy approach is needed to modernize India's banking sector while protecting public interest.

II. Understanding India's Cooperative Banking Structure

The January 2024 Banking Amendment Bill prioritizes reforms that seek to reinforce governance measures and improve customer experience in India's banking sector. One such reform policy allows a director of a Central Cooperative Bank (CCBs) to be appointed to a State Cooperative Bank (SCBs) board of directors. This proposed policy, however, has prompted debate around what consequences it has, if any, on the level of autonomy of the state cooperative bank as well as whether it demonstrates an increase in control by the central government over state cooperative banks.

In India, cooperative financial institutions exist at three levels: primary – which operates at

[4] Banking Laws (Amendment) Bill, 2024, Bill No. 25 of 2024, Lok Sabha, available at prsindia.org.
[5] Majmudar & Partners, *Banking Laws (Amendment) Bill, 2024: Key Insights*, Accessible at: https://www.majmudarindia.com/wp-content/uploads/Banking-Reg-Bill-MP-Jan-6-2025.pdf
[6] Rakesh Mohan, *Reforms in Indian Banking: Policy Initiatives and Their Impact*, 38(12) ECON. & POL. WKLY. 1205, 1209 (2023).
[7] S.L. Shetty, Public Sector Banks and Their Changing Role in Financial Inclusion, 41(14) J. INDIAN INST. BANKING & FIN. 50, 57 (2023).
[8] Reserve Bank of India, Financial Stability Report – June 2023, available at rbi.org.in.
[9] Deloitte India, *The Rising Threat of Cybercrime in Indian Banking*, Deloitte Insights (Dec. 2023), available at https://www2.deloitte.com.

village or town levels, central – referred to as the district level cooperatives, and state – which operates at the state level. These cooperatives serve as crucial service providers of loans and any credit-related services across rural and semi-urban areas. It is also worth mentioning that historically, these banks were able to operate independently, giving rise to a local bank that could address the needs of that specific region.

(A) Key Provisions of the Amendment

The alteration in law which permits a director of a CCB to assume board directorship of an SCB is an attempt to strengthen governance initiatives across the banking sector. In the words of Minister of Finance, Nirmala Sitharaman, this category of amendments aims to "strengthen governance in the banking sector and enhance customer convenience concerning nomination and protection of investors."

Under clause 3, the earlier qualification for the director was Rs. 2 lakh, but it has now been increased to Rs. 2 crore. This effectively removes middle-class individuals from eligibility and provides access only to the wealthy, thereby giving more control to industrialists.

Critics argue that this shift, combined with the dual directorship provision, will lead to greater centralization and a dilution of state autonomy in cooperative banking. By allowing directors to be members on both central and state cooperative banks, there is a high likelihood of central influence over key decisions, aligning them with broader policies rather than local needs."[10]

(B) Potential Consequences for State Autonomy

This clause, as interpreted by its critics, will bring centralization, which would mean a loss of independence for state cooperative banks. Allowing directors to be members of both central and state cooperative banks, there is a high likelihood of central autonomy over key decisions to cater to policies and objectives promulgated by the central government. This will eventually eliminate the chances of state cooperative banks functioning independently and being responsible for catering to local requirements.

(C) Government's Rationale for the Amendment

Advocates for this amendment argue that it will enhance the structures of governance and increase the interaction between the centre and the states. The government maintains that there is a need for these measures to help stabilize the country and to help in improving the integrity

[10]Banking Laws (Amendment) Bill to Strengthen Governance, Enhance Customer Convenience: Nirmala Sitharaman, *The Economic Times* (Mar. 27, 2024), https://economictimes.indiatimes.com/news/economy/policy/banking-laws-amendment-bill-to-strengthen-governance-enhance-customer-convenience-nirmala-sitharaman/articleshow/115933036.cms.

of the banking sector. The bill also includes provisions to increase the tenure of directors in cooperative banks from 8 to 10 years, aligning with the Constitution (Ninety-Seventh Amendment) Act, 2011[11]. [12]

(D) Broader Implications for India's Banking Sector

This change has emerged concurrently with a host of other changes in the Indian banking landscape, like proposals to strengthen the capital bases of regional rural banks while incurring lower costs by proposing mergers, which enable stronger institutions. Such actions are in line with the government's overall attempt to more efficiently consolidate the country's banking institutions.[13]

The amendment indeed seeks to improve management by enabling directors to serve simultaneously on both the boards of the CCB and SCB. This is however likely to raise concern about the risks of increased centralization and further loss of state control. The balance between achieving cohesive governance and maintaining the independence of state cooperative banks will be crucial in determining the success and acceptance of this legislative change.

III. Reduction of Government Stake in Public Sector Banks: Implications and Debates

The Banking Laws (Amendment) Bill, 2024, recently passed by the Lok Sabha, brings about substantial changes in the banking sector of India, significantly reducing the government's minimum holding in public sector banks (PSBs) from 51% to 26%. This move has brought in discussions regarding the implications of such a move and the potential shift toward privatization.

Traditionally, the Indian government has maintained a majority stake in PSBs to ensure control over banking operations and align them with national socio-economic objectives. The reduction of this threshold to 26% would represent a drastic shift, thereby reducing direct governmental control and potentially paving the way for increased private and possibly foreign investment. The stated objective of this amendment is to inculcate efficiency and competitiveness into the banking sector; however, it has raised concerns over a potential erosion of the social mandate

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[11] The Constitution (Ninety-Seventh Amendment) Act, 2011, No. 13, Acts of Parliament, 2012 (India).

[12] Lok Sabha Passes Banking Laws (Amendment) Bill Allowing 4 Nominees in Bank Accounts, *Bus. Standard* (Dec. 3, 2024), https://www.business-standard.com/industry/banking/ls-passes-banking-laws-amendment-bill-allowing-4-nominees-in-bank-accounts-124120301082_1.html.

[13] India Proposes Merging Regional Rural Banks to Help Them Shore Up Capital: Document, *Reuters* (Nov. 5, 2024), https://www.reuters.com/world/india/india-proposes-merging-regional-rural-banks-help-them-shore-up-capital-document-2024-11-05/.

historically associated with PSBs.

Critics argue that if the stake of the government control is diluted, the private parties may end up consolidating a dominant shareholding, which will be more skewed towards profit rather than the interests of the public. It may limit the access to affordable banking services in rural and other undeveloped areas. For example, the PSBs have been pivotal to schemes such as Jan Dhan Yojana as well. A greater private stake would be a detour away from initiatives like these.

Increased operational autonomy resulting from reduced government control might make PSBs adopt private-sector practices that give more importance to profit maximization than to socio-economic objectives. This transition may undermine the traditional role of PSBs in making banking accessible to marginalized sections of society.

Proponents of the amendment argue that a 26% stake is retained by the government to ensure strategic oversight, as decisions requiring a special resolution would still require a 75% majority, effectively giving the government veto power over critical issues. They also argue that increased private ownership would lead to greater efficiency, capital infusion, and adoption of innovative management practices, thereby improving the global competitiveness of PSBs. Aligning the governance of PSBs with global norms might attract foreign investments, as many countries have successfully reduced state ownership in banks without fully privatizing them.

The apparent intent behind the government's moves is driven by the imperative to modernize and strengthen the banking sector, but the downside risks need cautious regulatory oversight. The balance to be struck in increased private participation vis-à-vis the public interest mandate of PSBs calls for careful regulation. Policymakers must see to it that envisioned efficiency gains are not achieved at the expense of financial inclusion and equitable access to banking services.

The reduction of the minimum stake from 51% to 26% for the government in this amendment is a very bold step towards transforming the Indian banking sector. However, whether this step would lead to better operational efficiency and competitiveness or compromise the social objectives of public sector banks depends on the framework of implementation and subsequent regulatory measures.

IV. Banking reforms or a distraction from economic distress?

Recently, the Lok Sabha has cleared the Banking Laws (Amendment) Bill, 2024, which will seek to reform the country's banking system for a more convenience-oriented delivery to customers while ensuring robust governance. Some key provisions include the facility of having four nominees from a depositor for a bank account or a fixed deposit; the existing system of one

nominee is being overruled in this process. However, this change raises legal concerns. Clause 10, which amends Section 45Z.A, appears to contradict existing legal interpretations regarding nominees' rights. In the case of *Ramchangra Talwar Anr. v. Devendra Kumar Talwar Anr. (2010 Vol.10 SCC 671)*[14], the Supreme Court clarified that a nominee merely steps into the shoes of the depositor after their death and holds the money in trust for legal heirs; nomination does not override succession laws. By allowing four nominees, the amendment potentially creates a conflict with established succession laws, further raising concerns about excessive government interference in what is traditionally a state subject.

This change would simplify the process of distributing funds after a person's death has emerged as a problem during the COVID-19 pandemic.[15]

At the worst time for the economic indicators, the bill becomes a reality. India's gross domestic product expanded by 5.4% in the second quarter of FY2024-25, the weakest in seven quarters. This came on the back of weaker consumption and slow manufacturing and mining activities.[16] Inflation was at 6.21%, above the comfort zone for the Reserve Bank of India. The food inflation rose to 10.9%.[17] This worked to the tune of depreciating the currency to around ₹84.73 concerning the US dollar, which was what the Indian rupee was exchanging for.

Critics aver that concentrating on 'customer convenience' in banking reforms is a mere ruse for diverting attention from far more grave issues which call for economic interventions. Deterioration in GDP growth betrays more deep-seated structural problems calling for interventions going beyond the policy domain of banking alone. It also cuts down purchasing power due to inflationary forces and further worsens the vulnerability of more depressed poor segments in the economy. Rupee depreciation adds cost to imports, hence feeding into inflation and worsening the balance of payments position.

From the academic perspective, though customer convenience in banking would be useful for the client, it cannot possibly solve the problems at hand concerning macroeconomic matters. Economic theory suggests that during periods of slowing growth and high inflation, policy measures should be directed at stimulating economic activity and controlling price levels. Fiscal stimulus, monetary policy adjustment, and structural reforms to enhance productivity and

[14] *Ramchangra Talwar & Anr. v. Devendra Kumar Talwar & Anr., (2010) 10 SCC 671 (India).*
[15]The Economic Times, *supra* note 9.
[16]India's Q2 GDP Growth Slows to 5.4% Due to Weaker Consumption**,** *Fortune India* (Nov. 30, 2024), https://www.fortuneindia.com/macro/indias-q2-gdp-growth-slows-to-54-due-to-weaker-consumption/119340.
[17]India's Weak Q2 Growth Widens Divide Between Government, Cenbank Priorities**,** *Reuters* (Dec. 2, 2024), https://www.reuters.com/world/india/indias-weak-q2-growth-widens-divide-between-government-cenbank-priorities-2024-12-02/.

investment could be necessary. Banking reforms that improve customer experience, though positive, may have a limited impact on these broader economic objectives.

This might also shift the emphasis on debates that are not required, that is, banking reforms, rather than debates on policies that can revive the economy. Public debate might get hijacked towards the merits of banking convenience and thus overlook more critical debates on strategies to fight slowing growth and inflationary trends. It may further delay the implementation of the economic policies that are fundamentally required to deal with the present challenge effectively.

In conclusion, while the Banking Laws (Amendment) Bill, 2024 brings much-needed relief through measures enhancing convenience for customers, it should be realized that such changes might not be sufficient to reverse the existing economic problems. Hence, banking service enhancement policies must supplement complete instruments of economic policy for accelerating growth, stabilizing currency, and bringing down inflation. This world of economics is phenomenal in its complexity, demanding nothing but a holistic approach toward navigation into sustainable development.

V. Granting banks autonomy over auditor remuneration

The proposed Bill seeks, inter alia, to improve governance standards, provide consistency in reporting by banks to the Reserve Bank of India, ensure better protection for depositors and investors, improve audit quality in public sector banks, bring customer convenience in respect of nominations, and provide for an increase in the tenure of directors in cooperative banks. However, one of the more debated aspects of governance that changes under the Bill is the provision granting banks greater autonomy in deciding the remuneration of statutory auditors.

(A) Key Provisions in the Amendment

The current dispensation had designated the RBI together with the union government to undertake the task of revising the fee structure of bank auditors. The amendment effectively vests this prerogative to the banks; they can choose to negotiate directly with their choice of auditors and settle individual compensation packages accordingly. Modernization of legislation is part and parcel of upgrading banking operations, as well as governance structures of banks.

Its endorsers advance that it provides several advantages, which include:

- Operational Autonomy: Banks may have the leeway to determine auditor remuneration by their financial capabilities, which could attract auditors.
- Competitive Compensation: With the discretion to set competitive pay, banks may have a greater incentive to engage auditors with specialized expertise, enhancing the quality

of financial reporting and compliance.

- Efficiency in Decision Making: Eliminating RBI and the Central Government in determinations regarding remunerations might create efficiency to deliver engagements timely and effectively to auditing firms.

(B) Concerns and Risks

However, among these pros of this rationale come several concerns, such as:

- Auditor Independence: Allowing banks to set their auditors' pay may create conflicts of interest, where auditors could feel pressured to produce favorable reports to secure continued engagement. This could compromise the objectivity and impartiality essential to effective auditing.
- Quality of Audits: There's a risk that banks might prioritize cost-cutting over audit quality, leading to under-compensated auditors and potentially superficial audits that fail to detect or report financial discrepancies.
- Regulatory Oversight: The RBI regulation on the remuneration of auditors acted as a check to ensure standardized compensation in the banking sector. Eliminating the RBI from this system could lead to inconsistencies and a lack of uniformity in audit practices. Individuals have faith in both private and government banks as they are regulated and supervised by the RBI. However, this bill has curtailed RBI's supervision through Clause 6, where weekly supervision has now been reduced to a monthly review. This change not only reduces the frequency of oversight but also increases the possibility of regulatory gaps that could be exploited. The reduced monitoring framework creates a scope for loopholes in supervision, making it easier for financial irregularities to go undetected. Moreover, shifting from weekly to monthly reviews increases the workload on RBI employees, potentially stretching their capacity and making real-time intervention in banking irregularities more difficult.

A crucial aspect of strengthening the regulatory framework in banking is enhancing financial oversight through multi-agency collaboration. While the Reserve Bank of India (RBI) plays a central role in regulating banks, the National Financial Reporting Authority (NFRA) can significantly contribute by ensuring higher standards of financial reporting and auditing. As an independent body overseeing auditors, NFRA helps prevent misreporting and financial irregularities in banking institutions. Collaborating with the Securities and Exchange Board of India (SEBI) for listed banks and the RBI for prudential regulation can create a more transparent

and accountable system. A structured mechanism for periodic review and exchange of information between these regulators can enhance early detection of financial distress and strengthen the overall governance of the banking sector.

- The Need for Adoption of ISA 600: International Standard on Auditing (ISA) 600, titled *Special Considerations—Audits of Group Financial Statements (Including the Work of Component Auditors)*[18], outlines key principles for auditing group financial statements. It provides guidance on coordinating the work of component auditors, ensuring a risk-based approach, and reinforcing the group auditor's ultimate responsibility for the audit opinion. By emphasizing structured communication and oversight, the standard aims to enhance the quality and reliability of audits in complex financial environments.

Recognizing the need for greater audit accountability and stronger financial oversight, the National Financial Reporting Authority (NFRA) has worked alongside key regulatory bodies—the Reserve Bank of India (RBI), the Securities and Exchange Board of India (SEBI), the Institute of Chartered Accountants of India (ICAI), and the Ministry of Corporate Affairs—to implement the revised ISA 600. This collaborative effort highlights the importance of a multi-agency regulatory approach in ensuring transparency, mitigating financial risks, and fostering consistency in auditing practices across banking and corporate sectors. By integrating global auditing standards into India's financial framework, regulators seek to reinforce public confidence and enhance the effectiveness of financial disclosures.

(C) Opinions of Experts

This amendment has received mixed reviews from financial experts. Some feel that increased flexibility in remuneration will attract the best auditing talent, thereby enhancing financial oversight. Others argue that without strict safeguards, this freedom may undermine the independence of the auditor, resulting in compromised audit quality and higher financial risks. The Banking Laws (Amendment) Bill, 2024, which grants the authority to the banks to determine the remuneration of statutory auditors, is a very significant step toward operational autonomy. While it provides potential benefits in terms of flexibility and efficiency, it raises very critical concerns over auditor independence and the integrity of financial oversight. These risks have to be mitigated by ensuring there are effective and strong regulatory frameworks and ethical guidelines established to prevent such autonomy compromising the quality and

[18] International Auditing & Assurance Standards Bd., *International Standard on Auditing 600 (Revised): Special Considerations—Audits of Group Financial Statements*, (2022), https://www.iaasb.org/publications/international-standard-auditing-600-revised-special-considerations-audits-group-financial-statements.

objectivity of the bank audit.

VI. Banking laws (Amendment) Bill 2024 and the missing link in cybersecurity

The Indian Parliament's recently introduced Banking Laws (Amendment) Bill, 2024 has much to say in terms of reforms, but there are certain areas of concern. Cybercrime and financial frauds are on the rise, and the negative effects in this digital era are quite clear and relevant; however, the current Indian bill does not seem to address the issue.

(A) Current Landscape of Cyber Threats in Indian Banking

India has fallen victim to multiple cybercrimes in the recent past and the pandemic has only further helped broaden the scene. The adoption of the banking remote services allowed criminals to minimize the degree of limitations. With great risk comes great repercussions. Deloitte sees the restraining efforts as critical for the RPAI and Indian banks due to the peak present and rising threats translating into dirtier behavioral patterns being adopted.

The Indian banking industry has been at the forefront of rising cyber threats, which were even further catalyzed post the COVID-19 pandemic. Digitization has rapidly accelerated with the increased offer of banking services digitally, increasing the attack surface that cybercriminals target. Consequently, the cyber world has evolved from simple to fraudulent, financial crimes. As highlighted in the Deloitte study, a growing concern has been that Indian banks and RBI may face because of rising cyber threats.[19]

(B) Global Perspectives on Cybersecurity in Banking

There is an alarming increase of cybercrime across the world that has greatly affected the international banking industry and business in general. It will be in the best interest of this paper to mention key areas of concern regarding cyber security implications on the banking industry. One of the most competent research works done with concern to the above correlation was published on cyber space crime. This analysis primarily explores logistic, social and even technological dimensions of cybercriminal infrastructures and operations, as well as strategies for preventing and combating these organizations from existing.

Several initiatives have been launched aimed at developing a global framework for combating cybersecurity threats. One such approach includes the launching of international policies initiatives supported by key stakeholders in this area. For instance, there is a bank in the United

[19]Deloitte, *Cybersecurity in the Indian Banking Industry*, (2024), https://www2.deloitte.com/content/dam/Deloitte/in/Documents/risk/in-ra-cybersecurity-in-the-indian-banking-industry-noexp.pdf.

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States whose sole goal is to serve the global community through cybersecurity efforts. To this end, they focus on assisting in the development of legislation aimed at combating all forms of cybercrime. It was stated earlier that there are financial policies that were launched recently to manage the realities that arose with the emergence of the COVID-19 Virus.

Particularly in the overarching trend around the world at the moment that dictates the need to strengthen cyberspace laws through legislation, the proposed LAW does not cover any form of cybercrime or even any financial fraud. This is to be noted because of the increasing number and complexity of cyber attacks directed towards Indian banks. The absence of such provisions is bound to further expose the banking sector to a wide range of the currents that could shift trust, and monetary stability, on which the economy hinges deeply.

(C) Recommendations for Legislative Action

Looking at the current situation in attending to the woes of cybercrime in the banking space, there is a great need to include specific measures such as those towards legislation:

- Mandatory Buying in of Cyber Security Frameworks: Enforcing banks around standards to defend against cyber threats.
- Regular Security Audits: A legal requirement is placed on conducting cyber security audits at set intervals to help detect stress points.
- Protocols on Reporting of Incidents: Having defined sets of protocols on reporting any incidents of a cyber nature to the relevant regulatory authorities promptly.
- Increased Customer Awareness Programs: Requiring banks with a legal obligation to divulge details as to the extent and nature of potential cyber threats and suitable methods to use during banking transactions.
- Formalized collaboration between RBI, SEBI, and NFRA:

Establishing a structured framework for regular information-sharing and joint regulatory reviews can improve oversight and prevent financial mismanagement. NFRA's role in auditing and accounting compliance can complement SEBI's investor protection mandate and RBI's prudential regulatory functions. Joint audits for systemically important banks, periodic cross-regulatory assessments, and coordinated enforcement actions can ensure greater financial discipline and minimize systemic risks. Integrating NFRA's expertise into banking regulation will further bolster the integrity of financial disclosures, enhancing trust in the banking system.

VII. Conclusion

The Banking Laws (Amendment) Bill, 2024 brings in sweeping changes to bring India's banking system up to date, improve governance, and enhance customer convenience. But one glaring lacuna in the bill is that it does not tackle the increasing cyber threats that are bedeviling the banking sector. At a time when financial fraud and cybercrime are growing at a frightening pace, leaving out cybersecurity provisions in such a vital legislative reform exposes Indian banks to high-tech digital attacks.

The increase in cyber attacks, particularly in the post-COVID-19 era, has revealed weaknesses in India's financial regulatory architecture. International trends suggest an increased focus on improving cybersecurity legislation, but the bill fails to bring in any measures to enhance digital security within the banking system. In the absence of specific provisions for managing cyber risk, reporting incidents, and conducting periodic security audits, the Indian banking ecosystem could find it difficult to match the changing landscape of cyber threats.

For financial solidity and public trust, policymakers should ensure that banks adopt strong cybersecurity standards in the banking regulations. Mandatory cybersecurity architectures, regular security audits, and customer awareness enhancement programs should be mandated by law to protect electronic transactions and bank operations. The banks must be required to notify regulatory bodies within a short period whenever they face a cyber-attack so that risks may be minimized and the banks can be made stronger against cyberattacks.

Finally, though the bill is a significant step towards reforming India's banking legislation, it will be incomplete in its effectiveness unless it includes provisions to address cybercrime. Enhancing cybersecurity in the financial sector is not only a choice—it is a requirement for providing long-term financial security and stability.

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