



DIBF — Paper 2 – International Banking: Legal and Regulatory Aspects

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CH-1

International Banking Regulatory Architecture

Topic 1 — Why Banks Need Global Rules

A bank may lend, borrow and settle payments in many countries. A **supervisor**, the public body that checks banks, can act only inside its own country. This gap is the starting point of international banking regulation.

- **Regulation** — Making the rules banks must follow, such as minimum capital.
- **Supervision** — Checking that each bank follows the rules and manages its risks.
- **Regulatory arbitrage** — Moving business to the place with the weakest rules to save capital or avoid checks.
- **Contagion** — The failure of one bank spreads losses to banks in other countries.
- **Level playing field** — Similar rules stop a bank from winning business only because its home rules are lighter.

Events that pushed countries to co-operate

Event	What went wrong	Global response
Herstatt Bank , Germany (1974)	Bank closed after receiving Deutsche Marks but before paying US dollars; counterparties lost the full amount	G10 governors set up the Basel Committee
BCCI (1991)	Group was structured so that no single supervisor saw the whole bank	1992 Minimum Standards for cross-border banks
Asian crisis (1997–98)	Weak banks and short-term foreign debt	Financial Stability Forum (1999); IMF–World Bank FSAP
Global financial crisis (2007–09)	Thin capital, poor liquidity, too-big-to-fail banks	FSB (2009) and Basel III

Three layers of banking rules

Layer	Who writes it	Legal force
Global standard	BCBS, FSB, FATF and other standard setters	None by itself; members commit to adopt it
National law	Parliament (for example, the Banking Regulation Act, 1949)	Binding on all banks in the country
Regulator's directions	National regulator (for example, RBI Master Directions)	Binding; breach can lead to penalty

Remember this

- Global standards are **soft law**. They bind a bank only after its country adopts them.

Topic 2 — The Global Standard Setters

A **standard setter** is an international body that writes model rules for one part of the financial system. Most of them sit at the **Bank for International Settlements (BIS)** in Basel, Switzerland.

Body	Set up	Base	Covers	Main standard
FSB — Financial Stability Board	2009 (FSF 1999)	Basel (BIS)	Whole financial system	Key Attributes of Resolution; G-SIB policy

Body	Set up	Base	Covers	Main standard
BCBS — Basel Committee on Banking Supervision	1974	Basel (BIS)	Banks	Basel Accords; Core Principles
IOSCO — International Organization of Securities Commissions	1983	Madrid	Securities markets	Objectives and Principles of Securities Regulation
IAIS — International Association of Insurance Supervisors	1994	Basel (BIS)	Insurance	Insurance Core Principles
FATF — Financial Action Task Force	1989	Paris (OECD)	Money laundering, terror finance	40 Recommendations
CPMI — Committee on Payments and Market Infrastructures	1990 (as CPSS)	Basel (BIS)	Payment and settlement systems	PFMI (with IOSCO)
IADI — International Association of Deposit Insurers	2002	Basel (BIS)	Deposit insurance	Core Principles for deposit insurance

- **BIS** — Set up in **1930**; it is the bank for central banks. It hosts many committees but does not regulate commercial banks.
- **PFMI** — Principles for Financial Market Infrastructures, issued in **2012** by CPMI and IOSCO for payment systems, clearing houses and depositories.
- **IASB** — The International Accounting Standards Board writes IFRS. Accounting rules shape the numbers that capital rules use.

Remember this

- FSB co-ordinates; BCBS = banks; IOSCO = securities; IAIS = insurance; FATF = money laundering; CPMI = payments.

Topic 3 — Financial Stability Board

The **FSB** was created by the **G20** in **April 2009**. It replaced the Financial Stability Forum of 1999. It reports to the G20 leaders.

- **Members** — Finance ministries, central banks and market regulators of G20 and some other countries, plus standard setters and international bodies.
- **India** — Represented by the Ministry of Finance, RBI and SEBI.
- **Role** — Finds weak points in the global system and co-ordinates the work of the standard setters.
- **G-SIBs** — With BCBS, it names the global systemically important banks each year. These banks hold extra capital.
- **Key Attributes** — Its 2011 standard on how authorities should resolve a failing bank without taxpayer money.
- **TLAC** — Total Loss-Absorbing Capacity (2015): G-SIBs must hold debt that can be written down or converted in a failure.
- **Peer reviews** — Members review each other's progress in applying agreed reforms.

Resolution terms

Term	Meaning
Resolution	Orderly handling of a failing bank so that key services continue and losses fall on owners and creditors
Bail-in	Writing down or converting creditors' claims into equity instead of a public bail-out
Living will	A recovery and resolution plan prepared in advance for a large bank
Crisis Management Group	Home and key host authorities of a G-SIB who plan its resolution together

Topic 4 — Basel Committee and Core Principles

The **BCBS** was set up by the **G10** central bank governors at the end of **1974**, after the Herstatt failure. It is the main global standard setter for banks.

- **Membership** — 45 members from 28 jurisdictions, both central banks and supervisors. RBI is a member.
- **Oversight** — The Group of Central Bank Governors and Heads of Supervision (**GHOS**) approves its major decisions.
- **Status** — It is not a supranational supervisor. Its decisions have no legal force until a country adopts them.
- **Output** — Basel I, II and III capital and liquidity rules, and guidance on risk management and supervision.

Basel Core Principles for Effective Banking Supervision

The **Core Principles** are the minimum standard for a sound supervisory system. They were first issued in **1997**; the current set has **29 principles**.

Group	Principles	Examples
Supervisory powers, responsibilities and functions	CP 1 to 13	Independence, licensing, transfer of ownership, consolidated supervision, home-host relationships, corrective powers
Prudential regulations and requirements	CP 14 to 29	Corporate governance, capital, credit risk, problem assets, concentration, country risk, liquidity, operational risk, abuse of financial services

- **Use** — The IMF and World Bank check a country against the Core Principles in their FSAP reviews.
- **RCAP** — Regulatory Consistency Assessment Programme: BCBS checks whether each member's rules match the Basel standards.

Remember this

- Core Principles = **29**: CP 1–13 powers of the supervisor; CP 14–29 rules for banks.

Topic 5 — IOSCO, IAIS and FATE

Banks today sell mutual funds, insurance and securities. So the rules of other sector bodies also reach banks.

Point	IOSCO	IAIS	FATF
Members	Securities regulators (India: SEBI)	Insurance supervisors (India: IRDAI)	About 40 members, including India since 2010

Point	IOSCO	IAIS	FATF
Main standard	38 Principles of Securities Regulation	Insurance Core Principles; ComFrame for groups	40 Recommendations on AML and terror finance
Co-operation tool	Multilateral MoU on enforcement information	Supervisory colleges for insurance groups	Mutual evaluation (peer review)
Pressure on weak countries	Public list of non-signatories	Peer assessment	Grey list and black list

- **FATF lists** — A country on the grey list is under increased monitoring. Banks apply extra checks to business from black-listed countries.
- **See** — Ch 18 (p. 53) for FATF membership, India's 2024 mutual evaluation result and the current FATF lists.
- **Bank impact** — Correspondent banks abroad judge an Indian bank partly by India's FATF rating.

Example: A bank in country X wants a US dollar correspondent account. Country X is on the FATF grey list. The US bank may still open the account, but it will ask for more KYC data, check payments more closely and may charge more. A grey listing raises the cost of doing business across borders.

Topic 6 — National Regulators

Global bodies write standards. **National regulators** turn them into binding rules, licence banks and inspect them.

Financial regulators in India

Regulator	Law	Main area
Reserve Bank of India	RBI Act, 1934; Banking Regulation Act, 1949; FEMA, 1999	Banks, NBFCs, payment systems, foreign exchange, money and G-sec markets
SEBI	SEBI Act, 1992	Securities markets, mutual funds, listed companies
IRDAI	IRDA Act, 1999	Insurance companies and intermediaries
PFRDA	PFRDA Act, 2013	National Pension System
IFSCA	IFSCA Act, 2019	All financial services in International Financial Services Centres such as GIFT City
FSDC	Set up by Government (2010)	Council chaired by the Finance Minister for financial stability and inter-regulator co-ordination

- **RBI powers** — Licence (BR Act s.22), inspection (s.35) and binding directions (s.35A).
- **Board for Financial Supervision** — A committee of RBI's Central Board that oversees supervision.

Main regulators abroad

Country / area	Bank regulators
United States	Federal Reserve, OCC (national banks), FDIC (deposit insurance and resolution)
United Kingdom	Prudential Regulation Authority (in the Bank of England) and Financial Conduct Authority
Euro area	European Central Bank through the Single Supervisory Mechanism for significant banks; European Banking Authority writes the single rulebook
Singapore	Monetary Authority of Singapore (single regulator)

Remember this

- A **twin-peaks** model splits prudential and conduct regulation (UK). A **single regulator** covers all (Singapore).

Topic 7 — Enforceability of Global Standards

Global standards are not treaties. They work because countries choose to adopt them and because others watch whether they do.

Channel	How it makes a standard bite
Adoption into law	Country writes the standard into its law or regulator's directions; then breach attracts penalties
Peer review	BCBS RCAP, FSB peer reviews and FATF mutual evaluations publish each country's gaps
IMF–World Bank FSAP	Financial Sector Assessment Program reviews the country's system against global standards
Market pressure	Rating agencies, investors and correspondent banks prefer banks from compliant countries
Host-country entry	A host can refuse a licence to a bank whose home supervision is weak

- Stricter is allowed** — Basel sets a floor. A country may set higher rules.
- India** — RBI asks for total capital of **9%** against the Basel **8%**, and CET1 of **5.5%** against **4.5%**.
- Effective date** — A standard counts only from the date the national rule takes effect, not from the date BCBS issues it.
- Current Indian text** — Capital rules for commercial banks are in RBI's Capital Adequacy Directions, 2025, dated **28 November 2025**.

Pick the right layer

Example: An officer must state the minimum total capital for State Bank of India. The Basel minimum is 8%. The Indian minimum is 9%. Add the Capital Conservation Buffer of 2.5% and SBI's D-SIB surcharge of 0.8%. The answer is $9 + 2.5 + 0.8 = 12.3\%$ of risk-weighted assets, not 8%.

Remember this

- Ask four questions: which bank, which country, which version, from what date.

DIBF | Module 1 | CH-1 | MCQs

Q1. Which statement best describes the legal status of a standard issued by the Basel Committee? [Ref: Topic 1, p. 2]

- (a) It binds a bank only after the bank's home country adopts it in law or regulation
- (b) It binds all banks in BCBS member countries from the date of issue
- (c) It binds only banks listed on a stock exchange
- (d) It is a treaty enforced by the International Court of Justice

Q2. A banking group arranges its subsidiaries so that no single supervisor sees the whole group. Which failure is the classic example of this problem? [Ref: Topic 1, p. 2]

- (a) Herstatt Bank
- (b) BCCI
- (c) Barings Bank
- (d) Lehman Brothers

Q3. Bank A books loans in a centre with lighter capital rules only to save capital. This practice is called: [Ref: Topic 1, p. 2]

- (a) Contagion
- (b) Bail-in
- (c) Regulatory arbitrage
- (d) Ring-fencing

Q4. Which body was set up by the G20 in 2009 to co-ordinate the work of standard setters and report to G20 leaders? [Ref: Topic 3, p. 2]

- (a) Basel Committee on Banking Supervision
- (b) Financial Stability Board
- (c) International Association of Deposit Insurers
- (d) Committee on Payments and Market Infrastructures

Q5. Writing down creditors' claims or converting them into equity to recapitalise a failing bank, instead of using public money, is known as: [Ref: Topic 3, p. 2]

- (a) Bail-out
- (b) Netting
- (c) Novation
- (d) Bail-in

Q6. The Basel Core Principles for Effective Banking Supervision currently number: [Ref: Topic 4, p. 3]

- (a) 29
- (b) 25
- (c) 40
- (d) 38

Q7. An Indian broker-dealer subsidiary of a bank is reviewing global standards on securities market regulation. Which body issues them? [Ref: Topic 2, p. 2]

- (a) IAIS
- (b) CPMI
- (c) IOSCO
- (d) IADI

Q8. A bank's correspondent abroad asks for extra due diligence because the bank's home country has been placed under increased monitoring. The list concerned is maintained by: [Ref: Topic 5, p. 3]

- (a) FSB
- (b) BIS
- (c) IOSCO
- (d) FATF

Q9. Which Indian body regulates banking, insurance and securities business carried on in GIFT City IFSC? [Ref: Topic 6, p. 3]

- (a) RBI alone
- (b) IFSCA
- (c) SEBI alone
- (d) FSDC

Q10. Under which section of the Banking Regulation Act, 1949 can RBI issue binding directions to banks in the public interest? [Ref: Topic 6, p. 3]

- (a) Section 22
- (b) Section 11
- (c) Section 35A
- (d) Section 13

Q11. What is the minimum total capital (with CCB and D-SIB surcharge, CCyB nil) for a D-SIB in Bucket 2 in India? [Ref: Topic 7, p. 4]

- (a) 10.9%
- (b) 11.9%
- (c) 11.5%
- (d) 12.3%

Q12. BCBS checks whether a member country's capital and liquidity rules match the Basel standards through:

[Ref: Topic 4, p. 3]

- (a) FSAP (b) ICAAP (c) PFMI (d) RCAP

Q13. Which pair is correctly matched? [Ref: Topic 2, p. 2]

- (a) PFMI — CPMI and IOSCO
(b) Insurance Core Principles — IOSCO
(c) 40 Recommendations — BCBS
(d) Key Attributes of resolution — IAIS

Q14. A UK bank is supervised for safety and soundness by one body and for conduct by another. This structure is called: [Ref: Topic 6, p. 3]

- (a) Twin peaks (b) Single regulator
(c) Consolidated supervision (d) Host-country control

Q15. BCBS issues a new standard in year 1 and RBI notifies it with effect from year 3. For an Indian bank, the rule becomes binding from: [Ref: Topic 7, p. 4]

- (a) The BCBS issue date
(b) The date the FSB endorses it
(c) The effective date in RBI's direction
(d) The date the bank's board approves it

Answer key

Q	Ans	Q	Ans	Q	Ans	Q	Ans	Q	Ans
1	a	4	b	7	c	10	c	13	a
2	b	5	d	8	d	11	b	14	a
3	c	6	a	9	b	12	d	15	c

CH-2

Home-Host Supervision and Consolidated Supervision

Topic 1 — Branch versus Subsidiary

A bank can enter a foreign country in two main ways. A **branch** is part of the parent bank itself. A **subsidiary** is a separate company, incorporated in the host country and owned by the parent.

Point	Branch	Subsidiary
Legal entity	Same as the parent bank	Separate company under host law
Licence	Host licence for the branch	Host banking licence for the new company
Capital	Parent's capital stands behind it; host may ask for assigned or local capital	Own capital, counted for its own ratios
Liability on failure	Parent liable for all branch debts	Liability limited to the subsidiary's own assets, unless parent gives support
Main supervisor for solvency	Home supervisor of the parent	Host supervisor, with the home supervisor on a consolidated basis
Ring-fencing	Harder; assets can move within the bank	Easier; host can keep capital and liquidity locally

- **Home country** — The country where the parent bank is licensed and headquartered.

- **Host country** — The country where the branch or subsidiary operates.
- **Representative office** — It only does liaison and market study. It cannot take deposits or lend.

India as host and as home

- **Foreign banks in India** — They may work as branches or as RBI-approved wholly owned subsidiaries (WOS).
- **Why RBI prefers a WOS in some cases** — Complex group structure, weak home disclosure, poor home-host information sharing, or home laws that give home depositors priority in a winding-up.
- **Benefit to a WOS** — Treatment close to that of an Indian private bank, including wider freedom to open branches.
- **Indian banks abroad** — Overseas branches follow host rules and RBI rules; where they differ, the stricter rule applies.

Remember this

- Branch = same legal person as parent. Subsidiary = separate legal person with its own capital.

Topic 2 — The Basel Concordat

The **Concordat** is the Basel Committee's set of principles that splits supervisory duty between home and host supervisors. Its core rule is that **no foreign banking establishment should escape supervision**.

Milestone	Main point
Concordat (1975)	First BCBS paper after Herstatt; shared duty between host and parent supervisors
Revised Concordat (1983)	Introduced consolidated supervision ; treated branches and subsidiaries differently
Supplement (1990)	Better exchange of prudential information between supervisors
Minimum Standards (1992)	Four minimum standards, adopted after the BCCI collapse
Cross-border banking report (1996)	Joint work with offshore supervisors on access to information and on-site visits

Who is primarily responsible (1983 Concordat)

Area	Foreign branch	Foreign subsidiary
Solvency	Home (parent) supervisor	Host supervisor, jointly with home
Liquidity	Host supervisor	Host supervisor
Foreign exchange positions	Joint	Joint

The 1992 Minimum Standards

- **Capable home supervisor** — Every international bank must be supervised by a home authority able to do consolidated supervision.
- **Two consents** — A cross-border office needs the prior consent of both the home and the host authority.
- **Right to information** — The home authority must be able to obtain information from the bank's foreign offices.
- **Host's defence** — If these standards are not met, the host may restrict or refuse the office.

Remember this

- Solvency of a branch = home. Liquidity = host. Subsidiary = host first, home on a consolidated basis.