

Design and Challenges of Banking and Foreign Exchange Regulation in India

Raj Bhala

16 Asian Business Lawyer 27-72 (Fall 2015). Available at SSRN:
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2713939

ABSTRACT

In the post-British Raj Era, two hallmarks characterize Indian banking law: financial inclusion and financial liberalization. Indian banking law and policy has emphasized incorporation of the unbanked and under-banked as part of an overall development strategy to alleviate poverty. This emphasis has been consistent since 1947. Also since Partition, that law and policy has regulated foreign exchange (FX). But, on this topic India reversed course. In the 1990s, India shifted from Nehruvian Socialist- style controls to FX liberalization.

To some degree, underlying both the consistent emphasis on financial inclusion, and the new turn toward financial liberalization, are long-held suspicions in India about unbridled western-style financial markets. The suspicions may work to India's long-term advantage. Unchecked financial liberalization may undermine financial inclusion, so a cautionary approach may avoid exacerbating marginalization. Simply put, the principal challenge for Indian banking law and policy is to continue liberalization while furthering inclusion. Can India achieve inclusive liberalization?

KEYWORDS: India, Banking, Nehru, Singh, Aadhaar, Reserve Bank of India, Rupee, Foreign Exchange, Financial Inclusion, Government Owned Bank, Private Sector Bank, Real Time Gross Settlement, Branching, Non-bank Financial Company, Mobile Banking, Mobile payments