

Chapter 8:

Financial regulation and Regulatory authorities



A YouTube channel banner for NDGURU NAGENDRA DHIMAL. The banner features a circular profile picture of a man in a green jacket and red shirt. To the right of the picture, the text 'NDGURU' is above 'NAGENDRA DHIMAL'. Below the name is a yellow button with 'SMART LEARNING'. At the bottom left are icons for a globe and Facebook, followed by the website 'www.nagendradhimal.com.np' and the Facebook name 'Nagendra Dhimal'. At the bottom right is a WhatsApp icon and the number '9745862965'. In the top right corner, there is a '100K' badge and a red 'Subscribe' button with a bell icon. The banner is set against a blue background with decorative yellow and purple wavy lines and starburst shapes.

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CHAPTER-8

FINANCIAL REGULATIONS AND REGULATORY AUTHORITIES

- Banks and financial Institution Act, Nepal Rastra Bank Act, Foreign Exchange Act, Bank Offense Act, Anti-money Laundry Act, Insurance Act and securities Act are the relevant Acts.
- Nepal Rastra Bank, securities Board and Insurance Board are the regulatory authorities to regulate the financial sector.
- Nepal Rastra Bank regulates the financial institutions as empowered by Nepal Rastra Bank Act.
- Securities Board of Nepal regulates the financial markets as empowered by securities Act .
- Insurance Board regulates insurance companies as empowered by Insurance Act.



* Roles and Power of Nepal Rastra Bank as Regulatory Authority:

Nepal Rastra Bank is the central Bank of Nepal and plays a vital role in regulating the country's financial system. As a regulatory authority, NRB has several roles and powers as follows:

1. Monetary Policy:

NRB is responsible for formulating and implementing monetary policy in Nepal. It uses various tools such as interest rates, reserve requirements and open market operations to manage the money supply and ensure price stability.

2. Banking Supervision:

NRB is responsible for supervising and regulating banks and financial institutions in Nepal. It sets prudential regulations for banks and conducts regular inspections to ensure compliance.

3. Foreign Exchange Management:

NRB is responsible for managing Nepal's foreign exchange reserves and regulating foreign exchange transactions. It sets exchange rates and regulates cross-border capital flows to maintain macroeconomic stability.

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4. Payment Systems Oversight:

NRB oversees the payment and settlement systems in Nepal including interbank payments, card payments and mobile payments. It ensures the safety and efficiency of these systems and promotes financial inclusion.

5. Financial Stability

NRB is responsible for ensuring the stability of Nepal's financial system. It monitors systematic risks and takes corrective measures to prevent financial crises.

6. Consumer Protection

NRB protects the interests of consumers of financial services by setting standards for transparency, disclosure and consumer education.

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NRB has extensive powers to enforce its regulatory functions including the power to issue regulations, conduct investigations, impose fines and revoke licenses of non-compliant institutions.

Overall, NRB's role as a regulatory authority is important for maintaining the stability and integrity of Nepal's financial system and promoting economic development.



* Roles and power of the Insurance Board as Regulatory Authorities:

The Insurance Board (IB) is the regulatory authority for the insurance sector in Nepal. Its primary responsibility is to supervise and regulate insurance companies operating in Nepal. The followings are the roles and power of the Insurance Board:

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1. Licensing of Insurance Companies:

Insurance Board issues licenses to companies intending to operate in the insurance sector. It sets the requirements for obtaining a license, including capital adequacy, technical competence and reputation.

2. Supervision and Regulation of Insurance Companies

Insurance Board monitors the activities of insurance companies to ensure that they comply with regulatory requirements. It also supervises their financial performance and solvency.

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3. Consumer Protection

Insurance Board ensures that insurance companies treat consumers fairly and that they are adequately informed about the products they buy. It also

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Investigates complaints that violate consumer rights.

4. Policy Formulation

Insurance Board formulates policies and regulations for the insurance sector in Nepal. It also develops guidelines and standards for insurance companies to follow.

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5. Coordination

Coordination with Other Regulators

Insurance Board coordinates with other regulatory bodies such as Nepal Rastra Bank, Securities Board of Nepal and Ministry of Finance to ensure that there is no overlap or duplication of regulatory functions.

6. Power to Enforce Regulations

Insurance Board has the power to issue directives, impose fines and cancel licenses of non-compliant insurance companies.

Overall, the Insurance Board's role as a regulatory authority is essential in protecting consumers' interests, ensuring the soundness of the insurance industry and promoting the growth of the sector.



* Roles and power of the securities Board as Regulatory Authorities :

The securities Board of Nepal (SEBON) is the regulatory authority for the securities market in Nepal. It is responsible for regulating and supervising securities related activities including stock exchanges, securities dealers and investment funds. The following are the roles and powers of SEBON:

1. Licensing and Registration

SEBON issues licenses and registers securities market participants including stock brokers, investment advisors and mutual funds. It also sets the criteria and requirements for licensing and registration.

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2. Monitoring and Supervision

SEBON monitors securities markets and enforces regulations to ensure transparency, fairness and investor protection. It also conducts inspections and investigations to detect market manipulation and insider trading.

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3. Disclosure and Transparency

SEBON promotes disclosure and transparency in

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Securities markets by requiring companies to disclose relevant information to the public. It also sets standards for financial reporting and auditing.

4. Investor Education and Protection

SEBON is responsible for investor education and protection. It educates investors on the risks and benefits of investing in securities and provides them with information on market trends and developments. It also investigates and takes action against securities fraud and other malpractices.

5. Policy formulation

SEBON formulates policies and regulations for the securities market in Nepal. It also provides input to government on matters related to the securities market.

6. Powers to Enforce Regulations

SEBON has the power to enforce regulations by imposing fines, suspending licenses, and revoking licenses of non-compliant securities market participants.

Overall, SEBON's role as a regulatory authority is important in ensuring the integrity and stability of the securities market in Nepal.



* Nepal Rastra Bank Act, 2002

- Nepal Rastra Bank Act, 1955 was promulgated (जाही लागू) to establish and operate Nepal Rastra Bank as the central bank of the country.
- Nepal Rastra Bank (NRB) was established in 1956 under this act to discharge the central banking responsibilities including the development of domestic financial sector.
- Nepal Rastra Bank Act, 1955 was replaced with Nepal Rastra Bank Act, 2002 (2058 B.S.).
- The objective of the act is to maintain stability of price and balance of payment and the entire financial sector to support sustainable development of Nepal.
- The act has 12 chapters, 112 sections and 1 schedule.



* Provisions of Nepal Rastra Bank Act:

Some of the major provisions of the Nepal Rastra Bank act are:

1. Provisions relating to establishment and objectives of NRB.
2. Provisions relating to functions, duties and power of NRB.
3. Provisions relating to formation and functions of Board.
4. Provisions relating to the Governor.
5. Provisions relating to monetary functions and operations of open market.
6. Provisions relating to monetary units, bank notes and coins.
7. Provisions relating to foreign exchange policy, regulation and reserve.
8. Provisions relating to relationship with Government of Nepal.
9. Provisions relating to regulation, inspection and supervision of the banks.
10. Provisions relating to problematic banks and financial institutions.
11. Provisions relating to offences, punishment and proceedings.

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* Functions, Duties and power of Nepal Rastra Bank

Some major functions, duties and power of NRB are as follows.

1. To issue banknotes and coins.
2. To formulate and implement necessary monetary policies of the country in order to maintain the price stability.
3. To formulate and implement foreign exchange policies.
4. To determine the system of foreign exchange rate.
5. To manage and operate the foreign exchange reserves.
6. To act as a banker, advisor and financial agent of Government of Nepal.
7. To act as the banker of commercial banks and financial institutions and to function as the lender of the last resorts.
8. To issue license to commercial banks and financial institutions.
9. To establish and promote the system of payment, clearing and settlement and to regulate these activities.
10. To operate open market transaction through necessary instruments for liquidity management.

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* Provisions Relating to the Governor:

• Functions, duties and powers of the governor:

The major functions, duties and powers of the governor are as follows:

1. To implement the decisions made by the board of directors of the bank.
2. To operate and manage NRB and systematize the functions carried out by it.
3. To represent and cause to represent on behalf of NRB in international organization and associations.
4. To implement and cause to implement the monetary and foreign exchange policies.
5. To formulate the necessary policy on interest rates for deposits and loans with commercial banks and financial institutions.
6. To formulate the necessary policies regarding the liquidity to be maintained by commercial banks and financial institutions.
7. To take decision with regard to procedures and terms and conditions to be followed while purchasing and selling gold and other precious metals.
8. To fix the charge ~~pro~~ on service provided by NRB.
9. To take decisions of opening and closing of branches of NRB as may be necessary.

10. To establish and close the agency of NRB.
11. To make necessary arrangement for supervision of commercial banks and financial institutions.
12. To take decision with the revocation of license provided to commercial banks and financial institutions.
13. To take any decisions of any matters subject to the power delegated by the Board of directors.

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* Provisions of Nepal Rastra Bank Act regarding problematic Banks and Financial Institutions:

The Nepal Rastra Bank (NRB) Act includes various provisions regarding problematic banks and financial institutions. Some of the key provisions are:

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1. Corrective Measures:

The NRB can take corrective measures against problematic banks and financial institutions including issuing directives, imposing penalties or even revoking their license.

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2. Special Inspection:

The NRB can conduct special inspections of problematic banks and financial institutions to assess their financial



Condition, management and compliance with regulations

3. Capital Adequacy:

The NRB requires banks and financial institutions to maintain a minimum level of capital adequacy to ensure their financial strength and stability.

4. Risk Management

The NRB orders banks and financial institutions to have effective risk management systems in place to identify, assess, monitor and control various risks such as credit, market, liquidity and operational risks.

5. Depositor protection:

The NRB ensures the protection of depositors' interests by ordering banks and financial institutions to maintain deposit insurance, limit exposure to related parties and disclose their financial information.

6. Restructuring and Merger

The NRB also direct the restructuring or merger of a problematic bank or financial institution in order to strengthen its financial position and ensure its viability.



* Bank and Financial Institution Act (BAFIA), 2017.

- Banks and Financial Institution Act, 2017 (2013 B.S.) has 14 chapters, and 134 sections.
- Banks and other financial institutions such as development banks, finance companies and microfinance institutions are established and regulated under this act.
- The objectives of this act are:
 - i. To increase confidence of general public towards the overall banking and financial system of the country
 - ii. To protect and promote the rights and interests of depositors.
 - iii. To provide quality and reliable banking and financial services to general public.
 - iv. To maintain financial stability
 - v. To make necessary legal provisions concerning establishment, operation, management, regulation, inspection and supervision of banks and financial institutions.

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Some of the major provisions of this act are as follows:

1. Incorporation of Banks and Financial Institutions

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2. Issuing securities
3. Board of directors and chief executive officer
4. Provision relating to license
5. Provision relating to capital
6. Operation of banking and financial transactions
7. Disbursement and recovery of credits
8. Merger and acquisition of banks

* Money Laundry Prevention Act, 2008 (2064 B.S.)

- Money Laundering is the process by which illegal funds and assets are converted into legitimate funds and assets.
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- Money Laundering is the illegal process of hiding the origins of money obtained illegally by passing it through a complex system of banking transfers or other transactions.
 - Money Laundry Prevention Act, 2008 (2064 BS) was promulgated to provide the legal provision to prevent laundering of criminally earned money (assets) and financial investment in terrorist activities.
 - This act has 8 chapters, 47 sections and 1 schedule.



Money Laundry Prevention Act, 2008 has made following provision regarding investigation of offences relating to the asset laundering and financial investment in terrorist activities:

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→ Any person who has the information or knowledge that offence under this act is going to happen or happened, may lodge the complaints in written or verbally to the department.

→ After ~~receiving~~ receiving the complaint or report on the suspected transaction, chief of the Department of Asset Laundering Prevention Investigation shall conduct the primary investigation into the complaint or suspected transaction reported by financial information unit.

→ If the primary investigation and inquiry provide sufficient evidences to believe that offences relating to asset laundering and financial investment in terrorist activities took place or going to take place, chief of the department himself conducts the investigation or designated any other officer to conduct the investigation into the offences.

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→ Investigation officer may ask the documents, evidence, information on the offences related to asset laundering and financial investment in terrorist activities.

→ In the course of investigation, investigation officer may detain (हिरासतमा लिंग) the person against whom proceeding have been initiated if there are sufficient evidences to believe the he/she destroys the evidences on offences, obstructs the investigation process and influences effect on the investigation.

→ The act has empowered the department or investigation officer to freeze or control the assets earned from money laundering and financial investment in terrorist activities and used or intended to use for money laundering and financial investment for terrorist activities.

→ Investigation officer has the power to issue the order to bank or financial institution and incorporated business firm to monitor and report the transactions of person against whom proceeding has been initiated for offences.



Best Of Luck

