

---

## **From the Editorial Desk**

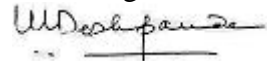
---

1. Convergence is coming together and it may occur within an industry, when it affects historically separate industries, it may be described as confluence of separately regulated types of enterprises. Of course, this type of convergence generates significant legal and commercial challenge especially for Governments and regulators. Convergence stresses existing regulatory framework especially when the regulation frequently depends upon arbitrary distinctions between types of business conduct. While the regulatory uncertainties pose profound problems for some business it also gives an opportunity for the less risk adverse. The enterprises seize the opportunity to utilize new technology and to fill the regulatory gaps in order to integrate in a vertical or horizontal fashion, owning or joint venturing with, and capturing thus the profit element in separate stages in the process of delivering content and service to customers. Therefore the Government and regulators have to seek and establish new strategies to deal with these issues. These issues are gaining significance, as there is a thinking on the part of the Government to deregulate and open up the insurance sector which is likely to induce the banks to take up the business of insurance. These issues are also important when companies or enterprises in the financial sector contemplate expansion in terms of acquisition and amalgamation impinging on globalization. The phenomenon has a variety of aspects especially when the convergence is geographical in nature. The markets grow closer eliminating completely the barriers between the markets. Deregulation initiatives also foster integration of financial markets especially when it gives access to foreign banks and financial institutions leading to evolution of domestic regulations. Also, barriers have been lowered or will be lowered not only among countries but also among various segments within the country which existed in the financial sector. The artificial distinctions were drawn among the areas like money and currency, banks, banking and banking supervision, banks and insurance and other specialized sectors related to financial transactions. Logically, the areas, which were entirely separate sectors will, with the convergence progressively blur the traditional divisions and boundaries among them. The barriers will definitely be lowered if not completely removed and with this, the legal delimitation between segments of banking and financial markets may tend to fail.

2. Traditionally, banking and insurance are considered as quite separate business in our country but with the deregulation of the insurance sector, more and more banks may start getting interested in the insurance business and may even think of merger with global insurance businesses. While the global insurance companies may apply for banking, the existing banking companies may divert to insurance companies. While this evolution favours the emergence of financial conglomerates, it may also lead to the concepts of universal banking and of mega-regulator supervising not only banking and insurance sector but overall payment system. In connection with supervision another delicate issue which can arise and may have to be looked at, is the relationship between the preventive action of the supervisor and the exit policy followed by the liquidators. This would require harmonizing banking and bankruptcy laws. A number of specific changes would be required to bankruptcy legislation if the safety of financial contracts through specific rules is to be fostered. This leads to the important question whether it is desirable for institutions or financial transaction to be subject to special rules. While some may consider it as undue privilege it can also be looked at as something indispensable to financial stability.

3. This issue presents a variety of articles and other features of current interest covering diverse aspects of law. We begin the Journal Section with an overview of the process of IT implementation in banking and its legal implications. This is followed by an article on interpretation of statutes - the role of Provisos in drafting legislation and delegated legislation. Another article examines the emerging trends in public interest litigation and advocates the need for caution.

4. In the Judgements Section, we cover a number of recent cases as usual - cases on service matters, encashment of bank guarantees, dishonour of cheque, etc. This time, unlike the usual, we have not included any item in the Legislation Section for want of suitable legislation. In the Books Review, we have reviewed the 'Golden Rules of Advocacy' by Keith Evans. Select Bibliography covers a large number of articles on an assortment of subjects published in different journals recently. Apart from the above, we have a report of the activities of the Legal Study Circle in the Department and other LD news, and all the usual fare like Mail Bag.



**N.V. Deshpande**  
Legal Adviser