

## **ABSTRACT**

From the moment a customer comes to a bank, the bank starts to collect various kinds of information in order to service the customer. Bank confidentiality law in principle requires banks to keep such information secret. In contrast modern state could not properly function if its members could keep banking information secret. Therefore modern governments tend to limit the scope of bank confidentiality to promote the welfare of the whole society. In this background the bankers are clueless about how to strike a delicate balance among such competing and even conflicting interests. These circumstances call for an examination of the key functions of bank confidentiality law and how to achieve a better bank confidentiality law regime in Sri Lanka balancing the duty of confidentiality and the duty of disclosure.

The study adopts qualitative approach, using comparative study design. The main sources of comparison in this study are Statutes and case law of Sri Lanka, UK, Hong Kong, Singapore and Malaysia because all the countries have similar foundation regarding duty of confidentiality of banks. The interviews were also conducted to gather information on opinions of the participants and Sri Lankan experience on the subject.

Section 77 of the Banking Act outlines the banker's duty of confidentiality and its qualifications. There are various statutes which are empowered an investigation of a banker's books and entries for the purpose of discovering information of a customer. Undoubtedly this has resulted major disclosures on customers information in Sri Lanka. Selected jurisdictions have different and sometimes conflicting rules in respect of the banker's obligation to keep customer information secret and the related obligation to report customer information to domestic or foreign regulators under specified circumstances.

Legislations relating to money laundering and terrorist financial, technological advancements , cross-border banking, outsourcing of the banking functions, credit reference agencies , interest of third parties , group of companies and marketing purposes were found as key challenges to the duty of confidentiality. Therefore time has come to Sri Lanka Legislature to introduce amendments or new legislations altogether to strike an appropriate and fair balance between the banker's duty of confidentiality and the duty of disclosure.