

KASNEB

CCP PART III SECTION 5

BANKING LAW AND PRACTICE

WEDNESDAY: 25 May 2016.

Time Allowed: 3 hours.

Answer ALL questions. Marks allocated to each question are shown at the end of the question.

QUESTION ONE

Tony Lichuma obtained an overdraft from his bank, Jikope Bank Ltd. and made arrangements to repay the overdraft in instalments. After only three instalments, Tony Lichuma ceased to make further payments. Tony Lichuma later received a cheque from Ham Traders Ltd. whose account was also at Jikope Bank Ltd. Instead of depositing the cheque to his bank account with Jikope Bank Ltd; he endorsed the cheque to a customer of Mileje Bank Ltd. Jikope Bank Ltd. came to know about the cheque by virtue of the fact that Tony Lichuma was a customer in the bank.

When the cheque was presented for payment, the manager of Jikope Bank Ltd. rang an officer of Mileje Bank Ltd. to enquire as to the identity of the endorsee who turned out to be a book maker.

The manager then rang the employers of Tony Lichuma and enquired whether they were aware that Tony Lichuma was a gambler. As a consequence of the conversation, the employer refused to renew Tony Lichuma's contract of employment.

Required:

- (a) (i) Explain the duty that Jikope Bank Ltd. might have breached in the above scenario. (2 marks)
- (ii) Discuss four exceptions to the duty identified in (a)(i) above. (8 marks)
- (b) Given the interconnectedness of the banking industry and the reliance that the national and global economy hold on banks, it is important for regulatory authorities in the banking sector to maintain control over all standardised practices of these institutions.

With reference to the above statement, describe five objectives of these regulations.

(10 marks)

(Total: 20 marks)

QUESTION TWO

- (a) Tunaweza Bank Ltd. has been operating since January 2014. The bank has been very successful and is planning to open a second branch in another city within the same country of its operations.

The owners of Tunaweza Bank Ltd. are aware that no financial institution should open a branch or a new place of business without the approval of the Central Bank. They are however, uncertain of the matters that the Central Bank might require to be satisfied on before granting the approval.

Required:

Advise Tunaweza Bank Ltd. on the matters that the Central Bank might consider before granting approval to a bank to open a branch. (6 marks)

- (b) Discuss the key steps involved when applying for a licence to start a commercial bank, non-bank financial institution or a mortgage finance company. (14 marks)

(Total: 20 marks)

QUESTION THREE

- (a) (i) Explain two ways through which a bank could ensure that its financial statements are exhibited to the public. (4 marks)
- (ii) Give examples of three matters that the auditor of a bank should report immediately to the Central Bank upon discovery, in the course of performance of his duties. (6 marks)

- (b) One of the objects of the Central Bank is the supervision of efficient and effective payment, clearing and settlement systems.

With reference to the above statement, define the following terms:

- (i) Clearing. (2 marks)
- (ii) Payment system. (2 marks)
- (iii) Settlement. (2 marks)
- (c) Explain the legal status of the Central Bank in your country. (4 marks)
- (Total: 20 marks)**

QUESTION FOUR

- (a) As a measure of the “know your customer” principle, financial institutions go to great lengths to identify their customers.

With reference to the above statement:

- (i) Identify two official records that a body corporate could produce to establish its true identity. (2 marks)
- (ii) Highlight the particulars that the customer records maintained by a financial institution should contain. (8 marks)
- (b) Describe two ways of perfecting a security interest in real estates. (4 marks)
- (c) Propose six specific measures that the management of a financial institution should take to prevent money laundering. (6 marks)
- (Total: 20 marks)**

QUESTION FIVE

- (a) Describe the information and documentation that every financial institution seeking to voluntarily wind up its operations should provide to the Central Bank. (8 marks)
- (b) Identify four areas that a report prepared by the person who inspects financial institutions should cover. (4 marks)
- (c) The Central Bank has the power to advise and direct financial institutions in certain matters.

With reference to the above statement, summarise four matters in which the Central Bank might advise and direct financial institutions. (8 marks)

(Total: 20 marks)

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