



CCP PART III SECTION 5
BANKING LAW AND PRACTICE

WEDNESDAY: 23 May 2018.

Time Allowed: 3 hours.

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

QUESTION ONE

- (a) Every institution seeking to voluntarily wind up its operations should provide certain information and documentation to the Central Bank in accordance with the Banking Act.

With reference to the above statement, describe the information and documentation that should be provided by the institution to the Central Bank. (10 marks)

- (b) Central banks in emerging economies generally have a broader mandate beyond the traditional mandates of monetary and financial stability.

In the context of the above statement, discuss the role of central bank in an emerging economy. (10 marks)

(Total: 20 marks)

QUESTION TWO

- (a) The banker's obligation to honour cheques extinguishes on receipt of a garnishee order from the court. Discuss the bank's procedure on receipt of garnishee order under the following pointers:

- (i) Where the order is served on the bank's head office. (2 marks)
- (ii) The customer's account balance is in debit. (2 marks)
- (iii) The garnishee order has stated the customer's name incorrectly. (2 marks)
- (iv) Customer holds a larger credit balance than the attached amount. (2 marks)
- (v) Information about the order to the customer. (2 marks)

- (b) Outline four cases in which the garnishee order is not binding upon the banker. (4 marks)

- (c) Explain six powers of the deposit protection fund manager. (6 marks)

(Total: 20 marks)

QUESTION THREE

- (a) LNG Bank Ltd. has been operating in Kenya since the year 2014. The bank has made good progress and is desirous of opening a branch in Uganda and establishing a subsidiary in Rwanda.

Advise LNG Bank Ltd. on the procedure of setting up the branch in Uganda and establishing the subsidiary in Rwanda. (10 marks)

- (b) Summarise six requirements that the Central Bank might require to be satisfied in considering an application for a licence to operate as a bank. (6 marks)

- (c) Describe the minimum capital requirements that every institution registered by the Central Bank shall at all times maintain. (4 marks)

(Total: 20 marks)

QUESTION FOUR

(a) Eric Marara was appointed as the auditor of TMC Bank Ltd. In the course of the prior year’s audit, Eric Marara was satisfied that a criminal offence involving fraud had been committed by TMC Bank Ltd.’s senior management employees. Eric Marara immediately reported the matter to the Central Bank, a move that did not go down well with senior management.

TMC Bank Ltd. has now decided to remove Eric Marara, and replace him with another firm of auditors. Eric Marara is aggrieved as no approval was sought for his removal.

Required:

- (i) With reference to the above scenario, examine the legal principles governing change of auditors. (10 marks)
 - (ii) Highlight the auditor’s duty of confidence in an audit. (4 marks)
- (b) Describe the form of accounts to be prepared by a bank or financial institution. (6 marks)
- (Total: 20 marks)**

QUESTION FIVE

- (a) Propose four measures that might be taken by an institution to ensure prudent lending. (8 marks)
 - (b) With specific reference to prevention and control of money laundering.
 - (i) Define the term “money laundering”. (4 marks)
 - (ii) Rael Waridi, a minor who is seventeen years of age would like to open a bank account in the bank you work in. She would like to deposit Sh.500,000. She visits the bank and finds you at the counter.
Summarise four measures that you might take to establish the true identity of Rael Waridi. (4 marks)
 - (c) Outline four steps that an institution intending to establish a correspondent banking relationship should undertake before establishing a business relationship. (4 marks)
- (Total: 20 marks)**
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