

KASNEB

CS PART III SECTION 5

FINANCIAL MARKETS LAW

WEDNESDAY: 25 November 2015.

Time Allowed: 3 hours.

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

QUESTION ONE

- (a) Self-regulation, typically involves a unique combination of private interests with government oversight and is an effective and efficient form of regulation for the complex, dynamic and ever-changing financial services industry. In the International Organisation of Securities Commissions (IOSCO) report of 1998, it was stated that “Self-Regulatory Organisations (SROs) can be a valuable component to the regulator in achieving the objectives of securities regulations”.

Assume that you have received the above write-up from the chairman of the Board of the company you work for. You have instructions to attend the next Board retreat to elaborate further on self-regulation.

Required:

- (i) Justify to the Board the need for incorporating self-regulation into regulatory frameworks. (8 marks)
- (ii) Describe four rules that a self regulatory organisation shall make relating to matters for which it has regulatory or supervisory functions. (4 marks)
- (b) For the Capital Markets Authority to carry out its objectives, it might exercise or perform certain powers, duties and functions bestowed upon it.

With reference to the above statement, explain eight such powers, duties and functions.

(8 marks)

(Total: 20 marks)

QUESTION TWO

- (a) On Saturday, 19 September 2015, Uwezo Ltd. held its annual general meeting. A number of resolutions were passed. One of the proposals was made by Michael Matata who proposed that Uwezo Ltd. ventures into the business of securities by operating a central depository.

You are the Certified Secretary (CS) of Uwezo Ltd. and the Chief Executive Officer has asked you to prepare a write up on how to establish a central depository.

Required:

- Prepare a summary of the rules governing the establishment of a central depository. (6 marks)
- (b) A central depository may establish a Central Depository Guarantee Fund for the settlement of trade through the central depository.
- Highlight four examples of the contents of the Central Depository Guarantee fund. (4 marks)
- (c) In the context of prevention of money laundering:
- (i) Explain the meaning of the term “money laundering”. (6 marks)
- (ii) Describe the process involved in money laundering. (4 marks)

(Total: 20 marks)

QUESTION THREE

- (a) Bendere Ltd. is a listed company that was incorporated in the year 2000 in Country X whose immediate neighbour is Country Y. Bendere Ltd. would like to be listed on the securities exchange of Country Y. Upon being listed, Bendere Ltd. plans to publicly offer debt securities.

Bendere Ltd. would like to ensure that all the information that will enable investors to determine whether the debt securities are being offered on terms that are acceptable to them, is included.

Advise Bendere Ltd. on the information which should be included in the public offer. (10 marks)

- (b) With reference to immobilisation and dematerialisation:
 - (i) Explain four circumstances under which an issuer shall refuse registration of the transfer to a central depository. (4 marks)
 - (ii) Examine the procedure used by central depository agents to dematerialise securities at the central depository. (6 marks)
- (Total: 20 marks)**

QUESTION FOUR

- (a) Summarise five records that must be maintained by the securities exchange. (5 marks)
- (b) Explain the content of the record of depositors maintained by a central depository. (5 marks)
- (c) Credit rating agencies issue opinions on the future creditworthiness of a particular company, security or obligation as of a given date. These opinions tend to be relied upon and can have an effect on securities markets in a variety of ways. Credit rating agencies should therefore endeavour to issue opinions that help reduce the asymmetry of information among borrowers, lenders and other market participants.

Comment on how credit rating agencies could reduce asymmetry of information making reference to the above statement and to International Organisation of Securities Commissions (IOSCO) principles on credit rating agencies.

(10 marks)
(Total: 20 marks)

QUESTION FIVE

- (a) The emerging markets committee of the International Organisation of Securities Commissions (IOSCO) recommended that its members foster good corporate governance through legislation, regulation and codes of good practices using the Organisation for Economic Co-operation Development (OECD) principles of corporate governance as a benchmark.

With reference to the above statement and your knowledge on corporate governance, propose five ways in which a company would ensure that shareholders have the opportunity to participate effectively in general shareholder meetings. (10 marks)

- (b) One of the basic shareholders' rights is to participate and vote in general shareholder meetings. Identify five other basic rights of shareholders. (5 marks)
 - (c) In relation to insider trading, "inside information" means information which has not been made public. Describe five ways through which information could be made public. (5 marks)
- (Total: 20 marks)**
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