



CS PART III SECTION 5
FINANCIAL MARKETS LAW

WEDNESDAY: 22 May 2019.

Time Allowed: 3 hours.

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

QUESTION ONE

- (a) Alice Mogaka is one of the six members appointed by the Cabinet Secretary in charge of The National Treasury to be a Board member of the Capital Markets Authority (CMA). Her appointment letter states that she would cease to hold office if she delivers to the Cabinet Secretary a written resignation letter.

Required:

Advise Alice Mogaka on any other five grounds that would lead to her ceasing to hold office as provided for in the piece of legislation regulating capital markets in your country. (5 marks)

- (b) Describe five objectives of the Capital Markets Authority. (5 marks)
- (c) The Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2013 established the Counter Financing of Terrorism Inter-Ministerial Committee.

Required:

In light of the above statement:

- (i) Highlight three functions of the Counter Financing of Terrorism Inter-ministerial Committee. (6 marks)
- (ii) Where any information relating to a money laundering offence is received by the Financial Reporting Centre, the information and the identity of the person giving the information shall be kept confidential.

Outline two circumstances which are an exception to the above rule.

(4 marks)

(Total: 20 marks)

QUESTION TWO

- (a) Moses Mamboleo is a certified company secretary in Faida Limited, a listed company at the Securities Exchange. During a Board meeting, the Chief Executive Officer (CEO) of Faida Limited reported that the company had received a notification from Enta Limited, a foreign based company of its intention to merge with Faida Limited. Moses Mamboleo, in trying to defuse an existing conflict with his wife, Mary Mamboleo, ended up disclosing the proposed merger with Enta Limited. Mary Mamboleo immediately logged into her Central Depository Account and bought 1,000 shares in Faida Limited. She also posted the information in her chamaa's whatsapp group. The Chairlady of the chamaa wasted no time in asking members to contribute funds towards the purchase of shares in Faida Limited as a matter of priority. Within two hours, members of the chamaa had raised Sh.25,000 which was used to buy shares in Faida Limited.

Required:

- (i) Advise the parties mentioned in relation to their legal position. (8 marks)
- (ii) Outline four circumstances under which information is deemed to have been made public. (4 marks)
- (b) With reference to the Capital Markets Authority code of corporate governance practices for issuers of securities to the public:
- (i) Describe two core values underlying ethical leadership. (4 marks)
- (ii) Highlight two guidelines on the remuneration of Board of directors of a corporate body. (4 marks)

(Total: 20 marks)

QUESTION THREE

- (a) You have been appointed the Company Secretary of Truth Limited. In a board meeting, the Board of Directors informs you that a prospectus had been published containing a statement that Truth Limited had struck oil which later turned out to be false.

Required:

- (i) Advise the Board on whether there are any possible liabilities for publishing false statement in a prospectus. (6 marks)

- (ii) The authors of a prospectus of a company are legally free to state in the prospectus whatever content they deem appropriate.

Examine three types of reports that must be included in a prospectus. (6 marks)

- (b) An application for a license to operate as a stock-broker shall be accompanied by the prescribed fees and certain specified documents, which include a business plan.

With reference to the above statement, summarise eight particulars that should be contained in the business plan. (8 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) Anne Wambui attended a conference on the immobilisation and dematerialisation of securities. She has approached you as a certified company secretary for clarification on certain concepts.

Required:

- (i) Explain the liability of the central depository for loss or damage to the certificates. (2 marks)

- (ii) Examine three effects of dematerialisation on a collective investment scheme (CIS). (6 marks)

- (b) In relation to the central depository system, explain four circumstances when a request for withdrawal of securities held in the central depository might be denied. (4 marks)

- (c) With the aid of the prepopulated table below, prepare eligibility requirements for public offering of shares and listing.

Requirement	Part A Criteria for the Main Investment Market Segment	Part B Criteria for the Alternative Investment Market Segment	Part C Criteria for the Growth Enterprise Market Segment (GEMS)
Incorporation status			
Share capital			
Net assets			N/A
Free transferability of shares			
Dividend policy	Issuer must have a clear future dividend policy	Issuer must have a clear future dividend policy	N/A

(8 marks)

(Total: 20 marks)

QUESTION FIVE

- (a) The King of Wakanda Land would like to establish a Retirement Benefits Authority for the benefit of its senior citizens. He has requested you to propose the constitution of members to the board of the Authority.

The King has requested you to ensure that the board of the authority mirrors the one in your country.

With reference to the above facts, propose the composition of members to the Retirement Benefits Authority Board of Wakanda Land. (8 marks)

- (b) Justify in four ways the importance of penalties for breach of financial markets law. (4 marks)

- (c) Summarise four prohibitions imposed on a person either directly or indirectly, when purchasing or selling any security. (8 marks)

(Total: 20 marks)

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