



### CIFA PART II SECTION 3

#### REGULATION OF FINANCIAL MARKETS

WEDNESDAY: 22 May 2019.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

#### QUESTION ONE

In the context of the central depository system:

- (a) Outline six documents which accompany an application for appointment to operate as an agent of Central Depository. (6 marks)
- (b) Analyse three duties of a central depository under the Central Depositories Act. (6 marks)
- (c) Highlight four advantages of case law as a source of law. (4 marks)
- (d) State four powers of the Court of Appeal in your country. (4 marks)

(Total: 20 marks)

#### QUESTION TWO

- (a) Discuss five functions of the capital markets fraud investigations unit. (10 marks)
- (b) The Assets Recovery Agency exists mainly to ensure that assets acquired through fraud, crime and money laundering are recovered.  
Examine four sources of funds for the Agency. (8 marks)
- (c) List two offences under the Proceeds of Crime and Anti-money Laundering Act. (2 marks)

(Total: 20 marks)

#### QUESTION THREE

- (a) Harry, a sole trader carrying on a business in the printing industry has requested Hope Bank Ltd. to advance him Sh.500,000 as additional working capital. The bank is prepared to advance the money on condition that Harry offers a security. Harry has a share certificate for 5,000 shares issued by Bright Star Company Limited. He wants to know whether he can use the shares whose value is Sh.650,000 as security for the loan.

He further seeks to know whether he would still receive dividends even after he has charged the shares to the bank.

Advise Harry. (10 marks)

- (b) In relation to regulation of financial market intermediaries:
  - (i) Define the term "collective investment scheme". (2 marks)
  - (ii) Discuss four principles of collective investment schemes (CIS) under the International Organisation of Securities Commissions (IOSCO) principles. (8 marks)

(Total: 20 marks)

#### QUESTION FOUR

- (a) Outline four powers of the board of directors of the Retirement Benefits Authority (RBA). (4 marks)
- (b) Summarise six grounds that could lead to termination of the appointment of the Governor of the Central Bank of your country. (6 marks)

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- (c) In relation to the law of agency:
- (i) Distinguish between “ostensible authority” and “presumed authority” of an agent. (4 marks)
  - (ii) Explain three conditions for a commercial agency of necessity to arise. (6 marks)
- (Total: 20 marks)**

**QUESTION FIVE**

- (a) Mercy Mahone, a citizen of Utopia read through a prospectus of Teddy B Company Limited. The prospectus elaborated on how the company had acquired a large tract of land in an area where the Utopia Government was setting up an airport and a railway station. Mercy found this as a great opportunity and proceeded to fill in the forms accompanying the prospectus thereby applying to be allotted shares. She posted these forms to the company. Shortly after posting, Mercy learnt that the Utopia Government had no such plans to put up an airport nor a railway station. She then posted another letter to Teddy B Limited informing the company that she had since lost interest in the company’s shares and did not want to be allotted any shares.

Advise Mercy on the following:

- (i) Rules on acceptance of an offer. (8 marks)
  - (ii) Difference between an “offer” and an “invitation to treat”. (2 marks)
- (b) The use of an automated system in the capital markets has come with its own benefits. Highlight five advantages of automation in the capital markets. (5 marks)
- (c) Prior to successful immobilisation of securities, the certificates of ownership undergo a verification exercise carried out by the issuer.

Outline five circumstances in which an issuer can reject the transfer of securities for immobilisation purposes at the verification stage. (5 marks)

**(Total: 20 marks)**

**QUESTION SIX**

- (a) Explain three duties of a central depository in relation to keeping records. (6 marks)
- (b) In the context of corporate governance:
- (i) Explain two principles of good corporate governance practices for board in relation to committees. (4 marks)
  - (ii) Summarise five guidelines on corporate governance practices relating to remuneration of the directors for public listed companies. (10 marks)
- (Total: 20 marks)**

**QUESTION SEVEN**

- (a) ZMG Ltd. would like to make an initial public offer (IPO). The directors of ZMG Ltd. have engaged you to assist in preparing a prospectus. Being an expert in legal matters, you have been called upon to specify the contents of a legal opinion in a prospectus.

**Required:**

Summarise six matters that should be included in the legal opinion of a prospectus. (12 marks)

- (b) With reference to regulations governing the proceeds of crime and anti-money laundering:
- (i) Propose four internal control measures that a reporting institution should formulate, adopt and implement to combat money laundering. (4 marks)
  - (ii) Identify four pieces of information to be included by a reporting institution undertaking a wire transfer in a domestic or cross border transfer. (4 marks)
- (Total: 20 marks)**

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