



CIFA PART II SECTION 3

REGULATION OF FINANCIAL MARKETS

THURSDAY: 26 November 2020.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) Describe five ways in which laws are classified. (10 marks)
- (b) Equity developed to mitigate the harshness of common law. As a consequence, certain maxims of equity were developed to aid in the application of equity as a source of law.  
Highlight five of these maxims. (5 marks)
- (c) The relation between the principal and the agent is a personal one and the agent cannot employ another person to do his duty. However, there are exceptions to this rule.

In relation to the above statement, summarise five exceptions to this general rule. (5 marks)  
(Total: 20 marks)

QUESTION TWO

- (a) With reference to the law of contract:
  - (i) Define the term "vitiating factor". (2 marks)
  - (ii) Describe five vitiating factors that could render a contract void or voidable. (10 marks)
- (b) Alex Makokha (owner) entered into a five-year lease agreement for office premises with Susan Mwangi (tenant). After the end of the lease period, the parties agreed that Susan Mwangi would continue occupying the office premises for another five years. On that basis, Susan Mwangi made extensive renovations to the office premises.  
Alex Makokha has now given Susan Mwangi notice to vacate the office premises claiming that the lease agreement had expired.

Required:

Advise Susan Mwangi on her legal rights. (8 marks)  
(Total: 20 marks)

QUESTION THREE

- (a) Explain the three kinds of accounts held by a central depository agent on behalf of a client. (6 marks)
- (b) With regard to the prevention of money laundering and other illicit activities, a licensee shall obtain through a client information questionnaire, details about a client.  
With reference to the above statement, describe four items of information that are required from the client. (8 marks)
- (c) Outline six common types of money laundering. (6 marks)  
(Total: 20 marks)

#### QUESTION FOUR

- (a) Explain six duties of a custodian. (12 marks)
- (b) Blue Katu intends to lodge an application for a license to operate as a securities dealer. Summarise four requirements that he must fulfil to be allowed to operate as such. (4 marks)
- (c) Describe two circumstances under which a supplementary listing statement could be issued in the Growth Enterprise Market Segment (GEMS). (4 marks)
- (Total: 20 marks)**

#### QUESTION FIVE

- (a) Summarise six categories of the International Organisation of Securities Commissions (IOSCO) Principles in relation to enforcement of securities regulation. (6 marks)
- (b) Describe the procedure for voluntary de-listing of equity securities at the Securities Exchange. (10 marks)
- (c) Highlight four regulatory requirements in relation to account statements in respect of book-entry securities. (4 marks)
- (Total: 20 marks)**

#### QUESTION SIX

- (a) Explain the historical development of the law and regulations governing financial markets in Kenya. (10 marks)
- (b) Outline the composition of the Capital Markets Tribunal. (5 marks)
- (c) Highlight any five records that should be maintained by a fund manager. (5 marks)
- (Total: 20 marks)**

#### QUESTION SEVEN

- (a) Market integrity is essential to the smooth operation of the market and to the trust that is necessary for the market to operate in a fair and transparent manner. However, some market intermediaries engage in practices that damage investor confidence and undermine the integrity of financial markets.

In connection with the above, explain the meaning of the following malpractices:

- (i) Market abuse. (4 marks)
- (ii) Churning. (4 marks)

- (b) The effective governance of a market intermediary is of utmost interest not just to its shareholders but also to its stakeholders such as its customers, the public and other market participants. As a result, market intermediaries should establish a corporate governance framework that provides strategic guidance to the firm and promotes the effective monitoring of the firm's management and its accountability to the Board.

In the context of the above, explain the following types of corporate governance mechanisms that could be deployed by a market intermediary:

- (i) Internal controls. (4 marks)
- (ii) External controls. (4 marks)

- (c) The market regulator will periodically undertake an assessment of the way in which licensed and approved businesses operate.

Summarise four factors that the regulator might consider when conducting compliance reviews. (4 marks)

**(Total: 20 marks)**