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CCP PART III SECTION 5

BANKING LAW AND PRACTICE

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) You attended a seminar organised by the Institute of Credit Management of your country. The guest of honour in the seminar that was titled Efficient and Effective Financial Services, was the Governor of the Central Bank of your country.

The Governor made the following opening statement: "The core mandate of the Central Bank is to formulate the monetary policy to achieve and maintain price stability, promote a stable and sound financial system and ensure an effective and efficient payment, clearing and settlement system".

The Governor then went ahead to state that to fulfil this mandate, the Central Bank has six core functions.

**Required:**

Explain the six core functions as explained by the Governor of CBK. (12 marks)

- (b) With specific reference to the establishment and legal status of the Central Bank, state eight legal status of the bank that gives its legal personality. (8 marks)

**(Total: 20 marks)**

**QUESTION TWO**

- (a) The Central Bank is empowered to grant authority to foreign institutions to open representative offices in Kenya. An applicant should complete an application form for authority to establish a representative office of a foreign bank. The application letter should be accompanied with the relevant supporting documentation.

**Required:**

Describe five of the supporting documentation that the applicant should attach. (10 marks)

- (b) (i) Summarise two circumstances under which approval might be granted for amalgamation and transfer of assets and liabilities. (4 marks)

(ii) Analyse three consequences that occur upon the coming into effect of a transaction effecting the amalgamations and transfers of assets and liabilities to another person. (6 marks)

**(Total: 20 marks)**

**QUESTION THREE**

- (a) An institution shall maintain such minimum holding of liquid assets as the Central Bank might from time to time determine.

With reference to the above statement, describe the seven components of the meaning of the term "liquid assets". (7 marks)

- (b) The main duty of an auditor shall be to audit and make a report of the annual statement of financial position and an income statement which are to be submitted to the Central Bank.

There are cases where the Central Bank might require an auditor to undertake additional duties to the main one.

**Required:**

Highlight three additional duties that might be required of an auditor to undertake. (3 marks)

- (c) Discuss the powers of the Central Bank under the following headings:
- (i) Powers of Central Bank to advise and direct an institution engaged in any practice likely to occasion a contravention of the Banking Act. (6 marks)
- (ii) Powers upon audit or inspection report that reveals an institution conducts its business in a manner contrary to the provisions of the Banking Act. (4 marks)
- (Total: 20 marks)**

#### QUESTION FOUR

- (a) Attempts to launder money, finance terrorism, or conduct other illegal activities can emanate from many different sources. However, certain products, services, customers, entities and geographic locations may be more vulnerable.

With specific reference to customer risk, certain customers and entities might pose specific risks.

**Required:**

Suggest six possible customer risks that should be assessed for the purposes of identifying the inherent money laundering risk of an institution's client base and business relationship. (12 marks)

- (b) As cyber attacks evolve, the Central Bank expects the leadership of institutions to ensure a proactive approach to cyber security.

One of the globally accepted strategic measures has been the introduction of the role of the Chief Information Security Officer (CISO). This role aims at creating an organisational culture of shared cyber risk ownership.

**Required:**

- (i) Define the following terms:
- Cyber security. (1 mark)
  - Cyber crime. (1 mark)
- (ii) Explain three roles of the Chief Information Security Officer. (6 marks)
- (Total: 20 marks)**

#### QUESTION FIVE

- (a) When a person opens a bank account with a particular bank, a relationship of debtor and creditor is created among other relationships. The bank in this case is considered the debtor. This relationship however, differs from similar relationships arising out of ordinary commercial debts in certain aspects.

With reference to the above statement, examine three ways in which the relationship is different. (6 marks)

- (b) The banker's obligation to honour cheques extinguishes on receipt of a garnishee order from the court. A garnishee order is issued in two parts.

**Required:**

Summarise the two parts that a garnishee order consists of. (6 marks)

- (c) An illiterate person cannot read and write, he carries the risk of being conned by anyone, the bank must therefore take due precaution while making payments from accounts held by illiterate persons.

With reference to the above statement, identify three safeguards that banks should put in place for illiterate persons. (2 marks)

- (d) Explain three sources of credit information about borrowers available to banks. (6 marks)
- (Total: 20 marks)**
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