

15

KIBABII UNIVERSITY



**UNIVERSITY EXAMINATIONS
SPECIAL/SUPPLEMENTARY EXAMINATION
2020/2021 ACADEMIC YEAR
THIRD YEAR FIRST SEMESTER
FOR THE DEGREE OF BACHELOR OF COMMERCE**

COURSE CODE: BCF 335B/BF312

COURSE TITLE: FINANCIAL LAW

DATE: 8TH FEBRUARY, 2021

TIME: 8.00AM – 10.00AM

INSTRUCTIONS TO CANDIDATES

Answer Question ONE (compulsory) and ANY OTHER TWO questions

01

02

03

04

SECTION A

QUESTION ONE

- a) Financial law is the branch of law that regulates social relationships arising from the financial activities. Briefly explain the legal preconditions for efficient financial laws in the financial markets (7 Marks)
- b) State the main powers of the Nairobi Securities Exchange (NSE) (5 Marks)
- c) Write short notes on the following concepts as used in financial law
- i) Dematerialization (2 Marks)
 - ii) Demutualization (2 Marks)
 - iii) Investor Compensation Fund (2 Marks)
- d) In relation to the Law on Bank Deposits and Accounts
- i) Outline the nature of the banker-customer relationship (3 Marks)
 - ii) State the reasons that may necessitate the termination of the banker-customer relationship (3 Marks)
- e) Briefly explain three types of insider trading (6 Marks)

SECTION B

QUESTION TWO

- a) "Confidence among retail investors remains subdued at the Nairobi Securities Exchange (NSE). This follows failure to prosecute individuals behind collapse of several stock brokerage firms that went under with cash belonging to the public. The suspects who brought down Discount Securities, Nyaga Stockbrokers, Ngenye Kariuki and Francis Thuo and Partners, are still free and none of those suspected have been prosecuted. "It takes more than six years for the court process to conclude a case like that touching on stockbrokers and this is not unique to Kenya. We are still hopeful that those found culpable will be prosecuted," said acting Capital Markets Authority (CMA) Chief Executive Officer Paul Mathaura.

(Jackson Omondi Okoth, Daily Nation 26 May 2015 "Slow-Court-Process-In-Kenya-Impeding-War-On-Rogue-Stockbrokers")

Required:

- i) Explain the reasons that may necessitate the suspension or revocation of the license a person dealing in the security industry (12 Marks)
- ii) Discuss the potential sanctions or liabilities for participating in corporate or business fraud in Kenya (8 Marks)

QUESTION THREE

- a) With the aid of statutory and judicial authority explain the following terms
- i). Bank (2 Marks)
 - ii). Bank Business (3 Marks)
 - iii). Bank Customer (3 Marks)
- b) You are a member of a leading international bank Zurich Bank Plc with its headquarters in Switzerland. In the last Annual General Meeting, the members resolved that they should

establish a foreign representative office in Kenya. Due to your knowledge in Financial Law you were appointed the chairperson of the committee to steer this process. In relation to the Kenya's Banking Act 2014, advice your committee on the following:-

- i). The steps a foreign banking institution is required to follow in applying for authority to open a representative office in Kenya (8 Marks)
- ii). The various prohibitions and restrictions in respect of banking and financial business in Kenya (4 Marks)

QUESTION FOUR

- a) In relation to the Law of Bank Lending and Advances, discuss the principles considered in lending policies of commercial banks (6 Marks)
- b) Commercial banks are business entities which are established for the purpose of carrying out banking operations with the aim of earning reasonable returns for the shareholders. This implies that such organizations cannot be operated effectively and efficiently without internal laws, regulations, policies and procedures for transacting banking business. Hence the need for operating policies by commercial banks cannot be overemphasized.

Required:

- i) Explain the critical areas relating to lending for which banks normally set policies (8 Marks)
- ii) Describe the lending procedure for loans and advances to the customers of banks (6 Marks)

QUESTION FIVE

- a) In relation to the Law governing negotiable instrument:-
 - i). Describe the various forms of qualified acceptance of a bill of exchange (6 Marks)
 - ii). Discuss four types of endorsements that may be made on a bill of exchange (8 Marks)
- b) The Capital Market Authority (CMA) derives its powers to regulate and supervise the capital markets industry from the Capital Markets Act and the Regulations issued there under. Enumerate the main the main objectives of the CMA (6 Marks)