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**INSTITUTE OF BANKERS IN MALAWI**

**ADVANCED DIPLOMA IN BANKING EXAMINATION**

**SUBJECT: ADVANCED BANKING LAW (IOBM – AD318)**

**Date: Monday, 29th April 2013**

**Time Allocated: 3 hours (13:30 – 16:30 pm)**

**INSTRUCTIONS TO CANDIDATES**

1 This paper consists of **TWO** Sections, A and B.

2 Section A consists of 4 questions, each question carries 15 marks.

Answer **ALL** questions.

3 Section B consists of 4 questions, each question carries 20 marks. Answer **ANY TWO** questions.

4 You will be allowed **10 minutes** to go through the paper before the start of the examination, you may write on this paper but not in the answer book.

5 Begin each answer on a new page.

6 **Please write your examination number on each answer book used. Answer sheets without examination numbers will not be marked.**

7 DO NOT open this question paper until instructed to do so.

**SECTION A (60 MARKS)**

Answer **ALL** questions from this section

**QUESTION 1**

Branches of banks are for some distinct purposes separate from their head offices.

1. Explain the principle of branch separateness. *(8 marks)*
2. Critically evaluate the relevance of the principle of branch separateness to the banking industry in Malawi. *(7 marks)*

**(Total 15 marks)**

**QUESTION 2**

Green Valley Bank is facing severe low liquidity. Upland Bank is one of the creditors for Green Valley Bank and is desirous of petitioning for the winding up of the Green Valley Bank.

1. Advise whether Uplands Bank has capacity to petition for the winding up process of a financial institution. *(5 marks)*
2. Briefly explain the priority of claims in the liquidation of a bank. *(10 marks)*

**(Total 15 marks)**

**QUESTION 3**

Explain the following objectives of the Reserve Bank:-

1. Banker and adviser to Government. *(5 marks)*
2. Maintenance of external reserves so as to safeguard the inter-national value of the Malawi currency. *(5 marks)*
3. Lender of last resort to the banking system***.*** *(5 marks)*

**(Total 15 marks)**

**QUESTION 4**

1. Name **three** best known international standards established and accredited to the Basel Committee. *(6 marks)*
2. Malawi’s constitution embraces a liberalized free market and economy. The regulation of banks and other financial institutions is viewed as unnecessary overregulation. Using the concept of ‘Systemic Risk’, justify the rationale for regulation of banks and financial institutions. *(9 marks)*

(**Total 15 marks)**

**SECTION B (40 MARKS)**

Answer **ANY TWO** questions from this section

**QUESTION 5**

1. List **five** financial institutions as per the definition embraced by the Financial Services Act, 2010. *(5 marks)*
2. In your opinion, is the definition of a financial institution unnecessarily very broad? *(5 marks)*
3. To what extent does the Financial Services Act deal with corporate governance of a financial institution? *(10 marks)*

**(Total 20 marks)**

**QUESTION 6**

1. Discuss any **three** ways through which an exclusion clause can be incorporated in to a contract between a banker and a customer. *(10 marks)*
2. Critically examine the adequacies and inadequacies of the current licencing requirements of a bank as a means of prudential regulation. *(10 marks)*

**(Total 20 marks)**

**QUESTION 7**

Wakuza Investments operates two current accounts designated for salaries and operations respectively. The account meant for operations is overdrawn. Wakuza Investments has issued out cheques to its employees being salaries for the month. A couple of cheques were returned refer to drawer. It has been discovered that the bank credited the salaries account with the equivalent of the overdrawn amount in the operations account.

Advise whether the bank had the right to set off between the two accounts. **(Total 20 marks)**

**QUESTION 8**

Banks in Malawi are increasingly getting involved in the issue of securities on the Malawi’s Stock Exchange through underwriting agreements and issuing securities. Discuss the Bank’s potential liability to the investors in the following cases:-

1. Misrepresentations by the bank’s officers in distributing an issuer’s security. *(10 marks)*
2. False information in the prospectus made by the issuer and distributed by the bank. *(10 marks)*

**(Total 20 marks)**

**END OF EXAMINATION PAPER**