

**INSTITUTE OF BANKERS IN MALAWI**

**ADVANCED DIPLOMA IN BANKING EXAMINATION**

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

**Date: Monday, 12th November 2018**

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

**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 books without examination numbers will not be marked.**

7 All persons writing examinations without payment will risk expulsion from the Institute.

8 If you are caught cheating, you will be automatically disqualified in all subjects seated this semester.

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

**SECTION A (60 MARKS)**

**Answer ALL questions from this section**

**QUESTION 1**

Systemic risk looms large in the regulation of banking and financial institutions in Malawi. Discuss.

**(Total 15 marks)**

**QUESTION 2**

ADMARC obtained a loan from Zatonse Bank plc, guaranteed by the Government of Malawi. ADMARC is struggling to repay the loan and Zatonse Bank has demanded that the guarantor settles the loan. The guarantor is also suffering from enormous cash flow problems due to under collection of revenue. The guarantor is only able to settle the loan through a promissory note instead of a cheque. The Managing Director of Zatonse Bank wishes your advice on the difference in the two modes of payment.

**Required**

Advise the Managing Director.

**(Total 15 marks)**

**QUESTION 3**

1. Explain a void payment. *(5 marks)*
2. Explain the legal position of a bank in relation to payments made by mistake.

*(10 marks)*

**(Total 15 marks)**

**QUESTION 4**

Explain the following terms

1. Capital Adequacy *(3 marks)*
2. Bearer Securities *(3 marks)*
3. Large Exposure *(3 marks)*
4. Negative Pledge *(3 marks)*
5. Payment Messages *(3 marks)*

**(Total 15 marks)**

**SECTION B (40 MARKS)**

Answer **ANY TWO** questions from this section.

**QUESTION 5**

In the year 2016, Mr Patel, a businessman from India established a successful business in Malawi dealing in cotton. He went bank to bank borrowing enormous sums of money, in excess of K20 billion. Suddenly Mr Patel disappeared and is reportedly back at his base in India, having externalized all the funds borrowed from the banks to his various businesses across the globe.

**Required**

1. Advise how bank regulation may be used to prevent such fraud and money laundering. *(15 marks)*
2. What course of action should the banks take in the circumstances. *(5 marks)*

**(Total 20 marks)**

**QUESTION 6**

1. In relation to issue of securities, explain the extent to which a bank may be liable to investors.  *(10 marks)*
2. Explain **two** rights and **three** duties of a trustee in an issue of securities? *(10 marks)*

**(Total 20 marks)**

***Q*UESTION 7**

With the aid of decided cases, explain the legal position with regard to default interest and the rule against penalties.

**(Total 20 marks)**

**QUESTION 8**

1. The Money Laundering and Proceeds of Serious Crime and Terrorist Financing Act 2006 provides for various requirements that a bank must comply with before establishing a cross –border correspondent banking relationship.

**Required**

Outline any **five** requirements. *(10 marks)*

1. Explain the circumstances in which a correspondent payment may be made.

*(10 marks)*

**(Total 20 marks)**

**END OF EXAMINATION PAPER**