

**INSTITUTE OF BANKERS IN MALAWI**

**ADVANCED DIPLOMA IN BANKING EXAMINATION**

**SUBJECT: LAW OF CREDIT & SECURITIES (IOBM – AD315)**

**Date: Sunday, 6th November 2016**

**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**

1. Explain **three** forms of security known to law. *(6 marks)*
2. Describe in detail the **two** stage test used by the courts in determining whether a charge is fixed or floating.  *(9 marks)*

**(Total 15 marks)**

**QUESTION 2**

1. In order for security interest to attach otherwise than by operation of law, conditions need to co-exist. Discuss the following **four** conditions.
2. the asset to be given in security must be identifiable.  *(3 marks)*
3. the debtor must have an interest in the asset. *(3 marks)*
4. there must be an agreement for security conforming to statutory formalities.  *(3 marks)*
5. contractual conditions for attachment must have been fulfilled.

*(3 marks)*

1. Mention **three** categories of goods from where a pledge may be taken.

*(3 marks)*

**(Total 15 marks)**

**QUESTION 3**

1. Discuss rights acquired by an assignee in assignment of security. *(9 marks)*
2. State **three** circumstances that will make a security interest legal. *(6 marks)*

**(Total 15 marks)**

**QUESTION 4**

1. What are the **two** technical differences between joint liability and several liability as applied in guarantees? *(6 marks)*
2. Write short notes on the following;
3. Delivery order *(3 marks)*
4. Mates’s receipt  *(3 marks)*
5. Book debt  *(3 marks)*

**(Total 15 marks)**

**SECTION B (40 MARKS)**

Answer **ANY TWO** questions from this section

**QUESTION 5**

Mr Phiri has obtained a loan facility from Zao Bank pledging his assets in form of a floating charge. However, Mr Phiri does not know under what circumstances will the charge crystallise. Please advise him on effective interventions required to crystallise the charge? **(Total 20 marks)**

**QUESTION 6**

1. Define and illustrate how a bill of lading operates in commercial transactions.

*(10 marks)*

1. Mention **five** duties of a buyer under CIF Contract.  *(10 marks)*

**(Total 20 marks)**

**QUESTION 7**

1. Outline main features of combined transport and problems arising out of combined transport document.  *(12 marks)*
2. Briefly explain **four** legal problems associated with container transport.

*(8 marks)*

**(Total 20 marks)**

**QUESTION 8**

1. Explain in detail the terms of a guarantee. *(10 marks)*
2. Describe the following legal checks as they apply in guarantees:
3. corporate powers and benefit. *(4 marks)*
4. contractual restrictions. *(3 marks)*
5. Financial assistance. *(3 marks)*

**(Total 20 marks)**

**END OF THE EXAMINATION PAPER**