

**INSTITUTE OF BANKERS IN MALAWI**

**ADVANCED DIPLOMA IN BANKING EXAMINATION**

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

**Date: Sunday, 22nd November 2020**

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

**INSTRUCTIONS TO CANDIDATES**

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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 3 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 when 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 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

Mrs Doubtfire obtained a bank loan from Tafika Bank with lending interest rate thereon at 18% per annum. Five months later, the lending interest rates escalated to 44% per annum. Mrs Doubtfire is refusing to repay the loan arguing that the contract with Tafika Bank has been frustrated. You are required to advise Tafika Bank.

**(Total 15 marks)**

**QUESTION 2**

Mrs. Mtangaumodzi is a wife to a very influential government official. Mrs. Mtangaumodzi wants to overdraw her personal account by issuing a charge over cash deposits of her husband.

**Required**

Explain to her the doctrine of privity of contract.

**(Total 15 marks)**

**QUESTION 3**

1. What are the **three** characteristics of a floating charge as expounded in the case of *RE YORKSHIREWOOLCOMBERS ASSOCIATION LTD* (1903)? *(7 marks)*
2. Why is a floating charge important as compared to a mere contract? *(8 marks)*

**(Total 15 marks)**

**QUESTION 4**

1. Mention **four** crystallization events you know. *(8 marks)*
2. Briefly, explain subordination of security. *(7 marks)*

**(Total 15 marks)**

SECTION B (40 MARKS)

Answer ANY TWO from this question

QUESTION 5

Explain the following:

1. Joint and several guarantees. *(10 marks)*
2. United Bank advanced MK10 million credit facility to Zako Nzanga Bus Company. The facility was secured by a floating charge (debenture) over any and all assets of Zako Nzanga Bus Company. Upon default, the bank issued a demand notice and repossessed one of the buses.

**Required**

Advise United Bank on the consequences of these events. *(10 marks)* **(Total 20 marks)**

**QUESTION 6**

1. An accounts clerk from the Ministry of Finance has come to your bank alleging that the Government of the Republic of Malawi wants to borrow K2 billion.

**Required**

In terms of the Public Finance Management Act, advise the Bank Manager on any **two** statutory requirements that must be met before extending the credit facility. *(10 marks)*

1. A limited company does not have all the capacity of a natural person. Discuss the limitation on the borrowing powers of a limited company. *(10 marks)* **(Total 20 marks)**

**QUESTION 7**

‘A floating charge crystallizes on the occurrence of an event which is incompatible with the continuance of trading by the company as a going concern.’ Discuss this statement. **(Total 20 marks)**

**QUESTION 8**

Briefly discuss any autonomous contracts that arise from a confirmed letter of credit. **(Total 20 marks)**

**END OF THE EXAMINATION PAPER**