

The
Management
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UNDERGRADUATE UNIVERSITY EXAMINATIONS

SCHOOL OF MANAGEMENT AND LEADERSHIP

DEGREE OF BACHELOR OF COMMERCE

FIN 324: BANKING LAW

DATE: 25TH MARCH 2025

DURATION: 2 HOURS

MAXIMUM MARKS: 70

INSTRUCTIONS:

1. Write your registration number on the answer booklet.
2. **DO NOT** write on this question paper.
3. This paper contains **SIX (6)** questions.
4. Question **ONE** is compulsory.
5. Answer any other **THREE** questions.
6. Question **ONE** carries **25 MARKS** and the rest carry **15 MARKS** each.
7. Write all your answers in the Examination answer booklet provided.

QUESTION ONE

Read the Case Study below carefully and answer the questions that follow:

MOVABLE SECURITY RIGHTS ACT, 2017

In recent years, Kenya has made progress in reforming its legislation by introducing new types of security to help people without real estate secure credit. These new forms of security involve recognizing different kinds of movable assets under the laws governing security interests. Previously, real estate was the primary way to access credit in financial institutions because it provided security to lenders in case of default. This meant that individuals and small and medium-sized enterprises (SMEs) without tangible assets could not access credit. The lack of financial inclusivity led to the need to repeal and amend the laws related to security interests, which did not address various shortcomings under the previous system.

Repealing and amending the laws governing movable asset collateral before 2017 helped address several challenges from the previous regime. The old framework involved many laws, multiple requirements, a fragmented registry system, high borrowing costs, and expensive enforcement procedures. As a result, there was no single registry for conducting a limited search, and the costs rose due to numerous stamp duties and registry charges for each document submitted under different registries.

In addition, there was an unclear conflict of laws clauses and little regard for newly developed moveable property types like intellectual property rights. On May 10, 2017, the Movable Property Security Rights Act, 2017 was ratified to remedy this scenario. By establishing the Office of the Registrar of Security Rights, registering security rights in movable property, and expanding the list of assets that can be used as collateral, the law aims to ensure financial inclusion through the use of movable property in credit facilities.

Required:

- a) Given the excerpt, elaborate on five disadvantages of using land as security for a bank loan (5 marks)

- b) Enumerate five moveable assets that an individual can use to secure credit. (10 marks)
- c) Describe five attributes of a good bank security. (10 marks)

QUESTION TWO

- a) Describe any five functions carried out by commercial banks in Kenya. (5 marks)
- b) Briefly explain the consideration that must be satisfied before the issuance of a banking license by the Central Bank of Kenya. (10 marks)

QUESTION THREE

- a) Ernest had three loans with a bank in Kenya amounting to Kshs 28,000,000. He has deposited the sum of Kshs 18,000,000 which is not enough to discharge all the debts. Explain the law on appropriation of payment when funds are insufficient. (5 marks)
- b) Jackson has appointed an agent to sign on an account held at a commercial bank in Kajiado. Explain the Kenyan law relating to delegation of authority to an agent. (10 marks)

QUESTION FOUR

- a) Watamu deposited title deeds with the bank. He pays Kshs 5,000 per month as fees. Elaborate on four liabilities that may be attached to the bank if the title deeds are misplaced by its employees. (8 marks)
- b) Briefly explain three types of negotiable instruments used in Kenya. (7 marks)

QUESTION FIVE

- a) Differentiate between an open cheque and a crossed cheque. (9 marks)
- b) In reference to trustees, outline **three** circumstances under which a bank is deemed to have notice of a trust (6 marks)

QUESTION SIX

- a) Ambrose died on 20th April 2024. He has an overdraft whose repayment is secured by his property. Explain the course of action that may be adopted by the personal representative of his estate in reference to the overdraft. (5 marks)
- b) Briefly explain five documents required by banks when opening accounts for limited liability companies. (10 marks)