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UNDERGRADUATE UNIVERSITY EXAMINATIONS

SCHOOL OF MANAGEMENT AND LEADERSHIP

DEGREE OF BACHELOR OF COMMERCE

FIN 323: FINANCIAL LAW

DATE: 5TH DECEMBER 2024

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:

FINANCIAL REGULATION

The financial sector in Kenya is characterized by a multitude of players. Many play a variety of roles in the development of Kenya. These players include banks, insurance service providers, capital and securities markets, savings and credit cooperative societies (SACCOs) among others. Financial services are regulated by different statutory bodies exercising jurisdiction over different sectors of the industry which include the Insurance Regulatory Authority, the Central Bank of Kenya, the Capital Markets Authority and Sacco Societies Regulatory Authority. There is a call for unification of these regulators in Kenya as it will facilitate information sharing and enable the organizations to anticipate and deal with financial crises.

Capital markets or financial markets are markets where financial instruments such as financial claims, assets and securities are traded between/ amongst members listed. In Kenya, only public limited companies licensed by the authorized body and listed under the Nairobi Securities Exchange enjoy this preserve. Capital markets can either be self-regulated, government regulated or a hybrid of self and government regulation.

In Kenya, the primary legislation governing capital markets is the Capital Markets Act and the Central Depositories Act. The Capital Markets Act establishes the Capital Markets Authority, a statutory body assigned to promote, regulate and facilitate the development of an orderly, fair and efficient capital market in Kenya. Another regulation mechanism established by the Capital Markets Act to ensure investor confidence is the Investor Compensation Fund. Established under section 18 of the Act, the fund exists for the benefit of investors who may suffer pecuniary loss resulting from the acts or omissions of a licensed intermediary while carrying out their obligations under a contract.

A Savings and Credit Co-Operative (SACCO) is an association of likeminded individuals, registered under the Ministry of Industry, Trade and Cooperatives in

Kenya, and authorized to take deposits from and lend to its members51 . Saccos are registered under the Co-operative Societies Act and the SACCO by-Laws basically play the internal governance role by providing guidelines on the objectives, membership, share capital, organization structure, management and lending regulations.

The Sacco Societies Act regulates Saccos in Kenya. The Act applies to every deposit taking business and specific non-deposit taking businesses as may be directed by the presiding cabinet secretary. Section 55 of the Act further establishes a Deposit Guarantee Fund to provide protection for members' deposits. The fund provides protection for members' deposits up to an amount of One Hundred Thousand Kenya Shillings but NOT shares. The aggregate credit balance of any accounts maintained by a Sacco member upon deduction of the member's liability shall qualify to be a protected deposit.

Required:

a) Briefly explain **five** benefits of a joint regulator model in Kenya. **(10 marks)**

b) Describe the mandate of SASRA. **(6 marks)**

c) Differentiate between deposit-taking SACCOs and non-deposit taking SACCOs in Kenya. **(4 marks)**

d) Enumerate any **five** functions carried out by the Capital Markets Authority in Kenya. **(5 marks)**

QUESTION TWO

a) Outline the objectives of any **four** international financial institutions. **(10 marks)**

b) 'The future rate of economic growth in a country can be projected by the state of its financial market development'. Explain **(5 marks)**

QUESTION THREE

a) Briefly explain any **five** documents which are freely transferable but are not negotiable instruments **(5 marks)**

b) Enumerate any **five** challenges faced by developing countries in developing domestic Capital Market. **(10 marks)**

QUESTION FOUR

a) With the use of relevant examples, illustrate how the law regulates banking business in Kenya. **(10 marks)**

b) Define the term moral hazard **(5 marks)**

QUESTION FIVE

a) 'The value of a derivative instrument depends upon the underlying asset.' Discuss any **five** forms of underlying assets. **(10 marks)**

b) Briefly explain any **five** characteristics of a financial asset. **(5 marks)**

QUESTION SIX

a) In reference to international bond markets, elaborate on **five** advantages of Euromarkets. **(10 marks)**

b) In reference to determination of interest rate, elaborate on the loanable model. **(5 marks)**