



**CHARTERED INSTITUTE OF BANKERS (GHANA)  
ASSOCIATESHIP EXAMINATION**

**LEVEL III**

**PRACTICE OF BANKING –LAW & PRACTICE  
APRIL 2024**

N.B:

1. Read carefully the instructions on the cover of the answer book.
2. Answer **FIVE** questions only as follows:  
**SECTION A: THREE** questions.  
**SECTION B: TWO** questions.
3. Each question carries 20 marks.
4. Marks allotted are shown in brackets by the questions.
5. In awarding marks, the examiner will look for answers which show:
  - a. An appreciation of the significance of the question.
  - b. A reasoned practical approach to the problem.
6. Answers in listed note form are accepted, provided they are clearly and logically presented, and the points made are adequately developed.
7. No aids such as calculators, books, dictionaries, papers or mathematical sets are permitted in this examination.
8. Time allowed: **THREE HOURS**
9. **An additional 15 minutes of reading time** is allowed at the beginning of the examination when candidates may write on this paper but **NOT** in the answer book.
10. Candidates must ensure that they answer questions in the appropriate answer book and **NOT** on loose sheets which are used only as supplementary sheets. Such answers will be cancelled.
11. The total number of questions in this paper is **SEVEN (7)**.
12. **DO NOT WRITE YOUR NAME ON THE ANSWER BOOK.**
13. **DO NOT OPEN THIS QUESTION PAPER UNTIL INSTRUCTED TO DO SO**

## SECTION A – ANSWER THREE (3) QUESTIONS

### Question 1 Multiple Choice – Answer all questions

1. In the context of Banker/Customer Relationship, which of the following cases did the court define a customer as a person with an account at the bank?
  - (a) Great Western Railway V London and County Banking Corporation
  - (b) Commissioner of Taxation V English, Scottish and Australian Bank
  - (c) Woods V Martins Bank
  - (d) Brown V Westminster Bank
  - (e) None of the above
  
2. The Banks and Specialized Deposit-Taking Institutions Act 2016 Act 930 regulates the operations of Banks and “Specialized Deposit-Taking Institutions”. What is the difference between a “Bank” and a “Specialized Deposit-Taking Institution” (SDI)?
  - (a) A bank may engage in foreign exchange business whilst an SDI cannot
  - (b) There is no difference between them
  - (c) An SDI engages in foreign exchange business only; a bank engages in both foreign exchange and local currency business
  - (d) An SDI is a non-bank financial institutions whilst a bank is a bank financial institution
  - (e) None of the above
  
3. In which of the following cases did the court describe the Banker/Customer Relationship as being of a “simple contract”?
  - (a) Foley V Hill
  - (b) Joachimson V Swiss Banking Corporation
  - (c) Garnett V Mckewan
  - (d) Brown V Westminster Bank
  - (e) None of the above
  
4. Your Customer has three overdrawn accounts with you. The first is a Wages Account with an Overdraft of GHC 100,000.00. The second is a General Account with an overdrawn position of GHC 120,000.00. The third is a “Special Project Account with an overdrawn position of GHC 250,000.00. You have received an inward transfer for the customer of GHC 150,000.00 and your customer says he does not mind which account the bank would credit the funds to. Your Manager has asked you to make the choice that benefits the bank. Which of the following would best meet this objective?
  - (a) The bank should credit the amount to the Wages Account because wages are paid every month so crediting it here will make sure the account does not get out of hand.
  - (b) The bank should credit the Special Project Account because it has the highest overdrawn position.

- (c) The bank should credit the amount to the General Account so that in the event of insolvency the bank may make a claim as a preferential creditor for wages.
  - (d) It does not really matter which account the bank credits the money to.
  - (e) None of the above.
5. The procedure for a Unilateral Notice on the part of the customer to close the account is an express written notice to the bank. Which of the following cases is relevant to his rule?
- (a) Wilson V Barclays Bank
  - (b) William V Midland Bank
  - (c) Wilson V Midland Bank
  - (d) Joachimson V Swiss Banking Corporation
  - (e) None of the above
6. Which of the following institutions is not empowered to issue directives to a bank for closure or freezing of a customer's account with the bank?
- (a) EOCO
  - (b) Financial Intelligence Center
  - (c) Bank of Ghana
  - (d) Auditor General's Department
  - (e) None of the above
7. Your customer died testate but failed to appoint an Executor in his will. Which of the following documents would be relevant for the duly appointed representative of the bank?
- (a) Probate
  - (b) Letters of Administration Not with Will attached
  - (c) Letters of Administration with Will attached
  - (d) Executor's Letter from the Court
  - (e) None of the above
8. Who is a mentally incapacitated person according to the Mental Health Act 2012 Act 846?
- (a) A person who appears to be insane
  - (b) A person certified by a court of competent jurisdiction to be mentally incapacitated
  - (c) A person certified by a bank to be mentally incapacitated
  - (d) (a), (b) & (c)
  - (e) None of the above
9. The Safe Custody service gives rise to the Contract of Bailment between the bank and the customer. One of the claims a bailor can bring against the bank is the claim of "Vicarious Liability" for the loss of items deposited for safe custody. What is "Vicarious Liability"?
- (a) Liability of an employer for the theft of any of its employees not charged with taking care of the item.
  - (b) Liability of an employee charged with taking care of the item in safe custody

- (c) Liability of an employee for the negligence in taking care of the item
  - (d) Liability of an employer for the negligence of an employee charged with taking care of the item
  - (e) None of the above
10. The Banks and Specialized Deposit Taking Institutions Act 2016, Act 930 provides guidance on the issuing of Bankers Opinion. Which of the following applies? Disclosure must be
- (a) To a bank, about the credit worthiness of a customer and of specific nature
  - (b) To a Credit Reference Bureau about the credit worthiness of a customer and detailed disclosure of credit facilities.
  - (c) To any financial institution about the credit worthiness of a customer and the information must be of a general nature.
  - (d) To a bank, about the credit worthiness of the bank, should be of commercial nature and the information should be specific
  - (e) None of the above
11. In lending to Clubs and Associations which of the following is appropriate?
- (a) Lend in the name of the Association as Clubs and Associations have a separate legal personality from that of its members
  - (b) Lend in the name of an Officer and obtain indemnity from officers of the Association.
  - (c) Lend in the name of the Association against guarantee from Register Generals Department
  - (d) (b) & (c)
  - (e) (a), (b) & (c)
12. John Eku and Edward Nkum have a Joint Account with you with a mandate which includes the Joint and Several Liability Clause. You received notice of the death of Edward at a time the balance on the account stood at GHC 150,000 DR. You duly stopped the account to prevent the rule in Clayton's Case from operating against the bank. Which of the following parties can you sue for payment?
- (a) John Eku only due to another clause: the survivorship clause
  - (b) The estate of Edward Nkum only.
  - (c) John Eku and the Estate of Edward Nkum
  - (d) The estate of John Eku and John Eku
  - (e) None of the above
13. Under the Incorporated Private Partnership Act 1962 Act 152, the maximum number of partners is:
- (a) 50
  - (b) 25
  - (c) 15
  - (d) 22

- (e) None of the above
14. Which of the following captures the difference between a Private Company limited by shares and a Public Company limited by shares?
- (a) A Private Company can invite the general public to subscribe to their shares whilst a Public Company cannot.
  - (b) A Private Company can list on the Stock Exchange whilst a Public Company cannot.
  - (c) A Private Company has a maximum of 55 members whilst there is not limit regarding membership of a Public Company.
  - (d) A Private Company must have a minimum of 2 directors whilst a Public Company must have a minimum of eight (8) Directors.
  - (e) None of the above
15. The Rule in Turquand's case has been codified under Section 150 of the Company's Act. What is the rule in Turquand's case?
- (a) The Rule in Turquand's case protects third parties from the operation of Ultra Vires Rule
  - (b) It is otherwise termed as the indoor Management Rule
  - (c) It is also termed as the 'Rule in Foss and Harbottle'
  - (d) (a) & (b)
  - (e) (a), (b) & (c)
16. Section 58 of the Bills of Exchange Act protects the bank that has paid an order cheque to a person other than the rightful owner. In order to benefit from this protection, the bank should have paid the cheque...
- (a) In good faith and without negligence
  - (b) In good faith and in the ordinary course of business
  - (c) In good faith and in due course
  - (d) In the ordinary course of business and without negligence
  - (e) None of the above
17. An Order Cheque is defined as:
- (a) A cheque that is drawn payable to order and on which the last endorsement is a forged endorsement
  - (b) A cheque drawn payable to order and on which the last endorsement is a conditional endorsement
  - (c) A cheque drawn payable to order and on which the last endorsement is an endorsement is a restrictive endorsement
  - (d) A cheque that is drawn payable to bearer and on which he last endorsement is an endorsement in blank
  - (e) None of the above

18. Which of the following is a non-statutory (case law) defence for a bank that is facing a claim of Conversion from the true owner of the cheque?
- (a) The bank having absolute title as a holder in due course
  - (b) The plea of “ex turpi causa non oritur action”
  - (c) Contributory negligence
  - (d) (a) (b) & (c)
  - (e) (a) & (c) only
19. Which of the following is not a duty of the bank in the delivery of electronic payment services?
- (a) Duty to reward customer for the service
  - (b) Duty to notify customer of service downtime
  - (c) Duty of secrecy
  - (d) Duty to notify customer of fraud
  - (e) Duty to account to customer
20. In Insolvency Law, a claim of “Preference” by a liquidator against a bank means
- (a) The bank is to be favored and high in the pecking order in respect of payment of dividends of insolvency to shareholders.
  - (b) A customer has favored the bank at the expense of other creditors
  - (c) A customer has sold an asset at an “undervalue”
  - (d) (a) and (c)
  - (e) None of the above

[Total: 20 marks]

## Question 2

Joseph Blue paid in a cash of GHC 50,000 into his account with the bank and this amount was credited in error to the account of Joseph Brew, another customer. It happened that Joseph Brew was owed GHC 50,000 by John Morgan who told Brew that he (John) had received a cheque for GHC 50,000 from Gifty Mbroh. The cheque would be paid into Brew’s account. John did not fulfill his promise; but having sighted a cash deposit transaction on his bank statement Brew issued a receipt to John believing that the credit came from him.

Two months after the death of John his executor, who was unable to reconcile the deceased's account, advertised for creditors, but did not hear from Brew. The executor had concluded that the debt to Brew had been paid having sighted his receipt in John's records. Consequently all creditors were paid and the deceased's estate was exhausted. A few months later Joseph Blue who had now noticed the omission of the credit on his statement, observed and queried the bank.

Discuss the position of the parties showing who could suffer a loss.

[20 marks]

### Question 3

Jacob Osei and Bernard Mensah operate a joint account with you. The mandate on the account is either to sign. Jacob is frequently out of the country so most of the time it is Bernard Mensah who has been coming to the bank personally to make payments into the account. On a few occasions Jacob has remitted funds into the account from abroad. You have just received notice that Jacob has passed away.

Bernard who has an individual personal account with you has sent you instructions to transfer the balance from the joint account into his personal account since as he says he is the “sole survivor” to the account. Two days after you have complied with the instructions, five of the elderly family members of the Osei family are before you to request for the balance on the account to enable them to apply for Letters of Administration for the management of Jacob Osei’s estate.

Advise the bank.

**[Total: 20 marks]**

### Question 4

Aggregates Ltd., a large engineering company, has banked with you for ten (10) years. You have supported it with borrowing facilities from time to time, to help to finance work-in-progress, against a legal mortgage over the company's land and buildings. For the last few months the account has been operating in credit.

A week ago, one of your clerks took a telephone call from the Company Secretary, instructing the bank to stop payment of a cheque for GHC 205,000, drawn in favour of Vacornis Ltd., a building company which was in the course of erecting a new factory on your customer's land. This cheque was a stage payment under the terms of the contract. Unfortunately, your clerk suffered an accident in the office shortly after taking this call and, as a result, the message was not recorded. On the following day, the cheque was presented in the clearing and was paid. The letter from the company confirming the telephone call has only just been received, and the company mentions that the reason for its stopping the cheque is that Vacornis Ltd. has had a receiver appointed by its bankers.

What is the bank's position? What steps must now be taken in the best interests of the customer and the bank?

**[Total: 20 marks]**

## SECTION B ANSWER TWO (2) QUESTIONS

### Question 5 – Multiple Choice – Answer all questions

1. Which of the following are included in the qualities of good security?
  - a. Marketability
  - b. Ascertainability of value
  - c. Divisibility
  - d. (a) and (b)
  - e. (a), (b) & (c)
2. The “whole debt” clause is one of the key clauses one would find in a third party security charge form. What is the legal import of the “whole debt” clause?
  - a. It prevents the guarantor/third party security provider from proving in the insolvency of the principal debtor or claiming subrogation or repayment from the principal debtor until the debt has been repaid.
  - b. It obligates the guarantor to pay off every debt the debtor is owing irrespective of the amount guaranteed by the guarantor.
  - c. The bank may call on the guarantor to pay without first calling on the principal debtor to pay
  - d. (a) & (c)
  - e. None of the above
3. A Memorandum of Deposit is very important in relation to the taking of an equitable mortgage for which of the following reasons?
  - a. The clauses contained in the Memorandum of Deposit protects the interest of the bank
  - b. It puts the security beyond doubt
  - c. It is a mere formality
  - d. (a) & (b)
  - e. None of the above
4. Which of the following is not a duty of a bank to a prospective guarantor?
  - a. Duty to disclose balance on the account
  - b. Duty to notify guarantor of extent of liability
  - c. Duty to correct any misapprehension by the guarantor
  - d. Duty to advise guarantor to obtain independent legal advice
  - e. None of the above
5. Which of the following is not an advantage for a bank taking a joint and several guarantee?
  - a. Right of set off over personal accounts of guarantor
  - b. Right to sue the estate of a deceased guarantor
  - c. Right to sue the guarantors separately



- d. Right to sue the guarantors jointly
  - e. Right to seize the assets of guarantor
6. One of the events below do not lead to a determination of a guarantee.
- a. Death of debtor
  - b. Death of guarantor
  - c. Mental incapacity of debtor
  - d. Insolvency of debtor
  - e. None of the above
7. On what basis may a company have a lien over its issued shares?
- a. Unpaid liability held on shares issued
  - b. When the shares are in the possession of the company
  - c. When the shares are yet to be issued
  - d. When the shares have been fully paid for
  - e. None of the above
8. A clause in the equitable mortgage charge form for shares is to the effect that “the mortgagor undertakes to forward bonus shares issued to the bank”. What is the objective of this clause?
- a. It is just a formality
  - b. To preserve the value of security held over the shares
  - c. To remind the mortgagor that the bank is in charge.
  - d. To make the borrower committed to paying back the loan
  - e. None of the above
9. A bank may convert an insurance policy into a paid-up policy when the customer has been unable to pay premiums. What is a paid-up policy?
- a. A policy whose proceeds have been paid.
  - b. A policy that has been surrendered
  - c. A policy on which premiums are considered to have been paid in full before the maturity date of the policy but the policy holder continues enjoying insurance coverage.
  - d. A policy in which premium payments are up to date
  - e. None of the above
10. How is paid up value calculated?
- a. Number of years Premium Paid divided by term of the policy multiplied by the Capital Value
  - b. It is simply the total value of premiums that have been paid.
  - c. Paid-Up Value is the same as the Capital Sum assured.

- d. Paid-Up Value is calculated as the present age of life assured divided by potential age and multiplied by the capital sum assured.
  - e. None of the above
11. Payment of a Life Insurance Policy has been triggered by the death of the life assured. Which of the following is relevant?
- a. The Capital Sum
  - b. The Surrender Value
  - c. The Paid-up Value
  - d. The Value of Premiums Outstanding
  - e. None of the above
12. In which of the following persons is there no insurable interest?
- a. Doctor/Patient
  - b. Husband/Wife
  - c. Religious Leader/Disciple
  - d. Judge/Litigant
  - e. None of the above
13. Which of the following are not registrable at the Companies Registry?
- a. Pledges of Goods
  - b. Letter of Hypothecation
  - c. Possessory Lien
  - d. (a), (b) & (c)
  - e. (a) & (b) only
14. Which of the following is an advantage of a fixed charge over a floating charge?
- a. Fixed charges have priority over floating charges subject to notice of negative pledge
  - b. Fixed charges do not have variable interest rates
  - c. Fixed charges enable the company to deal with the assets without the permission of the chargor
  - d. (a) & (c)
  - e. None of the above
15. Andoh, Bobilasco and Charles are joint tenants of a landed property situate at Mankessim. Charles has recently died. To whom does the property devolve?
- a. Andoh, Bobilasco and the estate of Charles
  - b. Andoh, Bobilasco and the nieces of Charles
  - c. Andoh and Bobilasco
  - d. Andoh only
  - e. None of the above.

16. One of the fundamental rights of a mortgagor is the mortgagor's equity of redemption. In which of the following has the equity of redemption principle been violated?
- Under the mortgage the property becomes the bank's property automatically on default of mortgagor in payment of the debt
  - The bank has to serve the customer 30 days statutory notice prior to enforcing its rights under the Borrowers and Lenders Act
  - On default, the bank has the right to appoint a Receiver
  - (a) & (b)
  - None of the above
17. Which of the following statutes currently regulates Land dealings in the country?
- Borrowers and Lenders Act 2020 Act 1052
  - Lands Act 2020 Act 1036
  - Mortgages Act 1972 NRCD 96
  - (a) & (b) only
  - (a), (b) & (c)
18. An Assignment has been executed without due notice to the debtor. What type of security does the bank have?
- Legal Assignment
  - Equitable Assignment
  - Bill of Exchange
  - Quasi Assignment
  - None of the above
19. Which of the following is a clause you would not find in a Trust Receipt?
- Agreement to deliver goods to bank or agent
  - Continuing Security
  - Power of sale in the event of default
  - Undertaking to insure
  - None of the above
20. Which of the listed types of security for bank advances are not regulated by the Borrowers and Lenders Act 2020 Act 1052?
- Ships
  - Aircrafts
  - Insurance policy
  - (a), (b) & (c)
  - None of the above
- [Total: 20 marks]**

### Question 6

Parkinson Mainoo, a retired Company Director, has a limit of GHC200,000 on his current account, but with a borrowing at GHC 150,000 the account became inactive twelve months ago. There was no response to your letters and last December you called in the borrowing. Again, there was no response and as you held a legal charge by Mainoo over an Endowment Life Policy, nominal value GHC 250,000, with a surrender value of GHC 215,000, you surrendered the policy.

Now, seven (7) weeks later, you had a visit from Mr. Mainoo's son, David who told you that his father died in hospital last week and that he is named as Executor in the will. He enquires about the Life Policy and is astounded to learn that the bank has surrendered it. He claims that as sole beneficiary, he has, by your action, been deprived of the Capital Value which would have accrued to the estate upon his father's death. He further states that had the bank enquired, they would have learnt that his father was seriously ill in hospital. Mr. David Mainoo, who is a legal executive with a firm of solicitors, says that in any event the bank should have *given* three (3) months' notice before realizing the Security and he threatens action as Executor and sole beneficiary.

(a) Advise the bank on the procedure for realizing an Assignment of a Life Insurance Policy in the event of death of the Life Assured. [15 marks]

(b) How should the bank deal with David's demand? [5 marks]  
[Total: 20 marks]

### Question 7

Discuss **five (5) clauses** that you would find in a **security charge form** for **corporate securities**.

[Total: 20 marks]