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**GARISSA UNIVERSITY**

**UNIVERSITY EXAMINATION 2018/2019 ACADEMIC YEAR FOUR**

**FIRST SEMESTER EXAMINATION**

**SCHOOL OF BUSINESS AND ECONOMICS**

**FOR THE DEGREE OF BACHELOR OF BUSINESS MANAGEMENT**

**COURSE CODE: BBM 412**

**COURSE TITLE: BANKING LAW**

**EXAMINATION DURATION: 2 HOURS**

**DATE: 29/11/18 TIME: 3.00-5.00 PM**

**INSTRUCTION TO CANDIDATES**

* **The examination has FIVE (5) questions**
* **Question ONE (1) is COMPULSORY**
* **Choose any other TWO (2) questions from the remaining FOUR (4) questions**
* **Use sketch diagrams to illustrate your answer whenever necessary**
* **Do not carry mobile phones or any other written materials in examination room**
* **Do not write on this paper**

**This paper consists of THREE (3) printed pages *please turn over***

**QUESTION ONE (COMPULSORY)**

Ms. Rose Wanjiru recently filed a suit against Standard Chartered Bank (SCB)  
Kenya Limited. Ms.Wanjiru is suing the bank for deductions on her account made without authority from the Treasury according to Section 44 of the Banking Act. This section provides that: No institution shall increase its rate of banking or other charges except with the prior approval of the Minister.Ms.Wanjiru moved to the High Court, demanding Kshs. 38,960 refund from Standard Chartered Bank for charges on her account. Kenyan banks are now cornered with a possibility of lawsuits based on legality of these charges. The Kenya Bankers Association of Kenya is very worried by the current development and they have approached your law firm to provide them with legal advice on the following matters using decided case law:

1. What qualifies Ms. Rose Wanjiru to be categorized as Standard Chartered Bank’s customer **[7 Marks]**
2. What is the extent of Standard Chartered Bank relation with Ms. Rose Wanjiru **[8 Marks]**
3. What are the general duties of banks such as SCB to their Customers such as Ms.RoseWanjiru **[15 Marks]**

**QUESTION TWO**  
 Kenya Electricity Generating Company (KenGen) plans to raise Kshs. 15 Billion through a rights issue in the Kenya capital market to finance expansion of its power generating capacity. The firm said the money to be raised through the rights issue was part of Kshs. 430 billion expansion plan to see KenGen through to 2018. Under the plan, KenGen hopes to raise it generation capacity to 3,200MW from the Current 1,200 MW. In the light of the foregoing, write a legal opinion on:

1. The capital markets in Kenya, its operation, regulation and key players. **[12 Marks]**
2. The significance of capital markets in the Kenyan Economy. **[8 Marks]**

**QUESTION THREE**  
There are approximately forty-three commercial banks in Kenya that serves the  
Kenyan population which in the 2009 census was reported to stand at 38.6 million. The Deposit Protection Fund Board is the body established under the Banking Act Chapter 488 of the laws of Kenya to provide deposit insurance to population of Kenyans that have deposited their monies with Banks.

1. Describe the term deposit insurance **[2 Marks]**
2. Explain the current legal and institutional framework for deposit insurance in Kenya **[12 Marks]**
3. Highlight possible reforms of the current legal framework. **[6 Marks]**

**QUESTION FOUR**  
Give an overview of the following financial institutions and their role in the  
Economy:

* 1. Insurance Companies **[5 Marks]**
  2. Retirement Schemes **[5 Marks]**
  3. Mutual Funds **[5 Marks]**
  4. Investment Banks **[5 Marks]**

**QUESTION FIVE**

Kenya has introduced a new formula for banks to use in pricing loans, seeking to bring down high interest rates that have stifled lending to businesses and homebuyers. Under the new system, the Treasury or finance ministry said bank lending rates would be linked to the Kenya Bank’s Reference Rate (KBBR). In addition, the Central Bank of Kenya under section 36(4) of the Central Bank of Kenya Act is required to publish the lowest rate of interest it charges on loans to banks and the rate shall be known as the Central Bank Rate (CBR). However, the CBK has failed to effectively reign in exorbitant interest rates charged by commercial banks to consumers. In the light of the above;

1. Discuss what are the roles of the Central Bank of Kenya **[10 Marks]**
2. Has the Central Bank been executing these roles efficiently in the interest of the Kenyan consumers **[10 marks]**