

BOWEN UNIVERSITY IWO, OSUN STATE

COLLEGE OF LAW

BACHELOR OF LAWS (LL.B) EXAMINATIONS

FIRST SEMESTER EXAMINATION, 2021/2022 ACADEMIC SESSION

PCL 517 – CAPITAL MARKET LAW I

INSTRUCTIONS: ANSWER ANY FOUR QUESTIONS

EACH QUESTION CARRIES 17^{1/2}

TIME ALLOWED: 3 HOURS

LOGICAL AND GRAMMATICALLY CORRECT PRESENTATION OF ANSWERS ARE IMPORTANT

1. The board of directors of Consolidated Manufacturers PLC (“the company”) resolved to offer substantial units of the company’s shares to the public by ways of offer for subscription and offer for sale as well as by private placement. A week after passing the resolution, officers of the company entered into a negotiation with two issuing houses on issues of regulatory compliance of the offers, consequent upon which the issuing houses prepared the relevant registration statements. The corporate affairs department of the company is so zealous about full subscription to the offers that it began to circulate recommendations and sale literature on the offer for subscription and offer for sale. The issuing houses had advised the company that the shares for private placement would require price discovery. Therefore, the company circulated a preliminary prospectus for the purpose. Three weeks after its board meeting, the company offered a substantial portion of its shares to the public for subscription. One of the trade competitors of Consolidated Manufacturers PLC has complained at your desk at the Legal and Enforcement Department of the Securities and Exchange Commission that the company did not follow the legal procedures in the Securities and Exchange Commission Rules and Regulations in all its actions.
Analyse the actions of Consolidated Manufacturers PLC in the light of the extant rules on each, stating the implication.
2. You are the company secretary and legal adviser of Green Grove PLC. The board of directors of the company has briefed you of the company’s intention to take the steps that will enable it to sell its securities to the public in the near future and on continuous basis.
Explain to the board the procedure, conditions precedent, documentation, and filing fees for the proposal.
3. Automobile Cooperative of Abuja Municipality PLC (“Auto Co-Op”) has about 20,000 members. To raise money for its business operations, it sold to the members and others that are not members notes that are payable on demand by the holder. The note paid a variable rate of interest that is adjusted monthly to make it of higher yield than other financial instruments in the locality. After trading profitably for a few years, Auto Co-Op fell into financial hardship and filed for bankruptcy. A class of note holders who purchased their notes within the past eighteen months instituted an action against the external auditors to Auto Co-Op, maintaining that their audit ought to have revealed the impending bankruptcy so as to warn them against buying the notes. They seek relief against the auditors under the Investments and Securities Act, 2007 (“ISA”). The external auditors argue that the notes are not securities so as to ground liability under the ISA.

With definition of 'securities' under the ISA and the aid of judicial decisions, evaluate the argument of the external auditors to Auto Co-Op, stating the tests the court would apply in reaching its decision.

4. In 2018, a dispute arose between a group of capital market operators and their clients. The parties referred the dispute to the Administrative Proceedings Committee ("APC") of the Securities and Exchange Commission. After hearing the parties to the dispute, the APC gave its verdict with which a party to the dispute is dissatisfied. More importantly, the dissatisfied party prefers a judicial pronouncement on the matter. Therefore, the party has approached you for an advice on the appropriate forum and related matters.

Write an opinion for the benefit of the party that has approached you on the appropriate judicial forum for the dispute, stating its composition, jurisdiction, and proceedings as well as appeals from its decision. Assuming that the issue between the parties is criminal in nature, where is the appropriate form?

5. "The stock exchange is, by far, the most important of the institutions through which the capital market operates. It is the leading self-regulatory organization of the market. In fact, it is so important that it has been described as an 'economic barometer' that gauges the health of the national economy." Write explanatory notes on the following:

- (a) The objectives and functions of the Nigerian Capital Market;
- (b) The Nigerian Stock Exchange and the Nigerian Exchange Group PLC (NGX); and
- (c) The Financial Markets Dealers Quotations (FMDQ) Group

6. The Securities and Exchange Commission (SEC) is the apex regulatory authority and regulator of regulators of the Nigerian Capital Market.

Explain five of its functions that relate to the regulation of capital market operators. In addition, appraise the operation of its Enforcement Department.

7. An intern in your law office is aware that the Securities and Exchange Commission ("SEC") requires some professionals classified as capital market operators to register with it but does not know if he would fall into that category if he elected to be rendering legal advice on capital market matters as an aspect of his legal practice.

- (a) With the aid of statutory and case-law authorities, explain to him who capital market operators are generally and if he must register with the SEC to achieve his objective; and
- (b) What would be his functions under the SEC Rules and Regulations in the capacity in which he intends to practise?