

TUTORIAL KIT
OMEGA SEMESTER

**PROGRAMME: BANKING AND
FINANCE**

COURSE: BFN 321

LAW, ETHICS & CORP. GOVERNANCE

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BFN 321: Law, Ethics & Corp. Governance

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Question 1:

- i. Discuss the causes of financial malpractices in financial institutions
- ii. How can we prevent unethical and financial malpractices in the banking industry?

Question 2:

- (a) Discuss the Shareholders cum Directors agency relationship. How can their conflicting interest be resolved?
- (b) Explain the rights and duties of Bankers as agents to the shareholders and the depositors of the bank.
- (c) State the basic difference between Partnership and Limited Liability Companies.

Question 3

- i. What should be done to promote good corporate governance?
- ii. Briefly discuss four factors influencing ethical behaviour.

- Question 4:** (a) List the process involved in the formation of Partnership business in Nigeria. How can Partnership business be dissolved?
(b) State the rights of a Partner in Partnership business. State the content of the Partnership deed.
(c) What are the stipulations of CAMA as regards formation, membership and share capital of companies?

Question 5

- i. Outline and discuss the common acceptable principles of Good Corporate Governance.
- ii. For Corporate governance to be said to be good, certain elements should exist. Briefly explain the key elements of good corporate governance.

Question 6

Explain in details the provisions of CAMA, 1990 as amended on the following activities of companies in Nigeria:

- (a) Meetings, Proceedings and notices of meetings.
- (b) Protection of minority interest and annual returns
- (c) Winding up of companies.

Question 7

(a) “It has become necessary that every company must develop a whistle blowing policy in order to deal with misconducts internally thereby preventing embarrassing public disclosure”. Identify some components of a well-designed whistle blowing policy.

Question 8:

- (a) In not more than four sentences differentiate with examples between choses in possession and choses in action.
- (b) State the major ingredients that must be established between a person and the object before ownership and possession of a property could be determined. What is adverse possession and how does it arise?

Question 9

What are the conditions that must exist before whistle blowing can take place.

Question 10

- (a) The Land Use Act of 1978 vested the ownership of land in the governor of the state. State the different rights individuals can have on land in both the state and local councils.
- (b) Write brief note on the following regarding land ownership and the use of land as security/ mortgage for bank lending:
 - (i) Governor’s powers and consent
 - (ii) Revocation and compensation

Question 11

“The level of ethics exhibited by banking practitioners e.g a banker, in the financial services sector is a function of many variables”. List and briefly explain 8 variables.

Question 12

- (a) Discuss the use of the following as securities for bank lending
 - (i) Hypothecation of goods
 - (ii) Bill of Sale
 - (iii) Trust receipts
- (b) Differentiate between commercial letters of credit and letter of comfort. What is Negative pledge under security for bank lending?

QUESTION 13

The Code of Corporate Governance developed by the Central Bank of Nigeria for banks, Post-consolidation made provisions for Code of Corporate Governance practice. Discuss six of them.

Question 14:

- (a) Differentiate between guarantee and indemnity as securities for bank lending. What are the essentials of a contract of guarantee?
- (b) State the provisions of the law regarding the liabilities of the following under the contract of guarantee:
 - (i) The guarantor
 - (ii) The Principal debtor
 - (iii) Co- guarantor

QUESTION 15

Outline three objectives of the code of ethics as it relate to banking

QUESTION 16:

- (a) Mention the steps taken in the discharge of a guarantor and how can the contract of guarantee be determined.
- (b) What do you understand by the principle of subrogation as it relates to the contract of guarantee?

Question 17

Discuss Six kinds of malpractices bank staff can indulge or exhibit.

Question 18:

- (a) What is the meaning of bankruptcy? Under what condition can a company be declared or adjudged bankrupt?
- (b) Explain the difference between voluntary and involuntary winding up.

Question 19

- (a) Mention the procedure leading to the adjudication of bankruptcy and what are the consequences of adjudication?
- (b) What is the role of trustee in bankruptcy?

Question 20

- (a) State your understanding of disqualification of bankruptcy. What are the general legal consequences of adjudication?

ANSWERS

Question 1:

Financial crimes in Nigeria have risen to an unprecedented level so much that an urgent step need to be taken to avert this ugly trend.

The causes of financial malpractices are:

- 1) The craze for material wealth and the acquisition of wealth without questioning the sources by the society.
- 2) Get rich quick syndrome of some staff.
- 3) Ineffective adherence to staff placement policy leading to unnecessary retention of staff in a branch or unit for too long.
- 4) Inadequate training of the operators of the system.
- 5) Job overloading on staff which impinged on their ability and capability.
- 6) Social decadence / pressure and squeeze in economics opportunities for young boys and girls being graduated from institutions yearly.
- 7) Lack of self discipline
- 8) Inadequate punishment for fraudster and misfits.

How to prevent unethical and financial malpractices

- 1) Banks must adhere religiously to trade agreements, repayment of deposits at maturity on agreed terms.
- 2) Every bank should lend on agreed terms and safe delivery on trading contracts at maturity.
- 3) Every bank must take reasonable steps to deal only with bonafide customer and for no gratification either in cash/kind for performing normal duties other than agreed contractual rates of interest. Where there is professional ethics, there will be effectiveness and healthy banks. The difference between failed banks and those that remained healthy or recovered from problems is the calibre of management. The calibre of management is a reflection of the degree of professional ethics.
- 4) All banks should ensure that their staff are apprised of the code of conduct and proper orientation of all banking staff be conducted on the ethics of the profession and the implications of various decrees/acts such as Failed Banks, BOFIA and also Money Laundering Acts.
- 5) It is ethical for every bank worker to sign the “Declaration or Oath of Secrecy” to guarantee strict confidentiality of information about the bank’s customer.
- 6) The best professional policies and practice should be observed by bank management in the acts of recruitment, motivation, discipline and discharge of staff workers.
- 7) Every tariff/rate charged by bank on service should be in conformity with that fixed by Bankers Tariff while basis of variation must be explained and published.

QUESTION 3

(A) To promote corporate governance, the following are required:

- i. Ensure that ethical standards are maintained and that institutions comply with laws and regulations.
- ii. Adequate disclosure and communication

- iii. There should be succession planning for every financial institution planning towards the long existence of the institution.
- iv. Setting up an acceptable risk guideline.
- v. Ensure transparency in remuneration process.
- vi. Ensuring there is integrity of an institutions financial and accounting reporting system.
- vii. Ensuring that an organization has good internal control in the system to cater for financial and operational matters.

Factors Influencing High Ethical Standard

- 1) Public / Full Disclosure
Publishing of the organization account for the public.
- 2) Increase public concern through discussion in the media, meetings and conferences.
- 3) Obeying government regulations. Instituting a culture of compliance with rules and regulations
- 4) Reporting suspicious transaction to the regulatory authority e.g money laundering. This helps to prevent advances fee fraud and other related offences. It help to stop institutions from engaging in advance fee fraud.
- 5) Ensuring a regular management reporting and monitoring system.

QUESTION 5

- iii. Outline and discuss the common acceptable principles of Good Corporate Governance.
- iv. For Corporate governance to be said to be good, certain elements should exist. Briefly explain the key elements of good corporate governance.

(i) The common acceptable principles of good governance are:

1. BOARD OF DIRECTORS

This is the body saddled with the primary responsibility of managing the company to achieve the purpose for which the company was established.

- 2. DIRECTORS REMUNERATION
- 3. THE ACCOUNT OF THE COMPANY
- 4. INTEGRITY AND ETHICAL BEHAVIOUR.
- 5. SHAREHOLDERS.
- 6. OTHER STAKEHOLDERS
- 7. CORPORATE SOCIAL RESPONSIBILITY(CSR)

(ii) KEY ELEMENTS OF GOOD CORPORATE GOVERNANCE.

For corporate governance to be said to be good, certain elements should be put in place or exist.

A company that is truly well managed should have the following attributes:

- 1. REPUTATION RISK: Reputation is what a person (company) is known for and that may be good or bad and could be an asset or hindrance.

(B) Companies that are well managed should exhibit good corporate governance. The key elements of good corporate governance are:

- 1. REPUTATION RISK

2. ACCOUNTABILITY
3. OPENESS
4. TRANSPARENCY

QUESTION 7

(a) “It has become necessary that every company must develop a whistle blowing policy in order to deal with misconducts internally thereby preventing embarrassing public disclosure”. Identify some components of a well-designed whistle blowing policy.

(a) A well-designed whistle-blowing policy should include the following components:

- i. An effectively communicated statements or responsibility. This will enable employees understand that they have responsibility to report unethical or illegal conduct through appropriate channel.
- ii. There must be a clearly defined procedure for reporting unethical conducts in a confidential manner.
- iii. The organization must employ well-trained staff to investigate report of illegal or unethical activities.
- iv. Employees must be assured that their reports of suspected wrongdoing will not be ignored or misused. This can be achieved by informing employees about the outcome of an investigation.
- v. There must be a guarantee that employees will not suffer retaliation for making reports in good faith.

QUESTION 9

The conditions that must exist before whistle blowing can take place are:

- i. The situation must be of sufficient moral importance.
- ii. The charges must be well founded with sufficient facts and at the same time, the whistle blower must understand the consequences of unsupported allegation.
- iii. Whistle should be blown only when there is a chance of achieving an issue or solving a problem that will be of public interest.
- iv. Internal channel of complaining must have been obtained.

QUESTION 11

“The level of ethics exhibited by banking practitioners e.g a banker, in the financial services sector is a function of many variables”. List and briefly explain 8 variables.

The level of ethics exhibited by a banker may be influence by the following variables:

1. Integrity: This means honesty, fair dealing and truthfulness. It is a prerequisite for ethical behaviour in all aspects of enterprises.
2. Competence: Demonstration of knowledge, experience and skill needed to function on the job.
3. Moral Values: These are virtues, roles and regulations which the society hold dear as the basis of its continued existence.
4. Legality: The existence of laws which prescribe minimum level of moral or ethical behaviour.
5. Deregulation: Government policy that engenders competition which in turns throws professional virtues to the dogs
6. Greed: Inordinate desire to possess.
7. Honesty: Telling of lies and fraudulent dealings, uprightness and truthfulness.

8. Ignorance: Lack of knowledge and inadequate understanding of situation can lead to immoral actions and inactions

9. Environment: An environment polluted by deep poverty and endemic corruption is a fertile ground for unethical behaviour. Ethical behaviour may be situation

10. Self-preservation: A manager wants to keep his head at time by doing his master's bidding. If the master wants a particular goal achieved, this, the manager must do first. The issue of whether or not it is ethical is secondary.

QUESTION 13

The Code of Corporate Governance developed by the Central Bank of Nigeria for banks, Post-consolidation made provisions for Code of Corporate Governance practice. Discuss six of them. The following are the Code of Corporate Governance developed by CBN in 2006:

- (i) Equity Ownership in Banks
- (ii) Structure and Composition of Board and Board Committees
- (iii) Board Oversight Functions
- (iv) Tenure of directors
- (v) Code of Conduct for Directors and Conflict of Interest
- (v) Board Performance Appraisal
- (vi) Management Reporting Relationships
- (vii) Data Integrity and Disclosure Requirement and Whistle-blowing
- (viii) Compliance Procedures and Whistle-blowing
- (ix) Risk Management Procedures and Internal Controls
- (x) Role and Tenure of Auditors

QUESTION 15

Outline three objectives of the code of ethics as it relate to banking

Objectives of Code of Ethics as it relates to banking

- 1) To set a standard for good banking practice which bank should follow in dealing with their customers
- 2) To provide guidelines for banks in order for them to act fairly and reasonably.
- 3) To cause banks to help customers to understand the operations of the bank. This includes the risk relating to operation.

In code of ethics, there are issues that bankers must address at all times. They include the following:

- i) Integrity of records: records of institutions such as banks' secrecy.
- ii) Compliance to the law.
- iii) Inter-bank transaction.
- iv) Conflict of interest
- v) Social responsibility.
- vi) Confidentiality of customer information.
- vii) Handling of customers' complaint with care.
- viii) Interest payable to customers must comply with laid down laws.
- ix) There is a standard expected in opening and closing accounts.
- x) There must be terms and conditions for lending.

Question 17

- i. It is usual to find a banker using a customer's deposit for quick speculation and keeping the proceeds for himself.
- ii. Deliberate wrongful calculation of interest payable on the savings of a customer.
- iii. Excessive charges on current account.
- iv. Bankers collude with their counterparts in the Central Bank of Nigeria to use customers deposit in the purchase of foreign exchange at a discount which the collaborators share as commission.
- v. Acceptance of bribes, gifts and favours for purposes of influencing normal discharge of banking functions.
- vi. Collusion with armed robbers to attack the bank in cases of fat withdrawals or deposits.
- vii. Imposition of excessively stringent loan conditions out of proportion to the loan demanded.
- viii. Cheque over certain amount are returned for "Drawer's confirmation" purportedly to avoid fraud.

Question 19

Hint: (a) Students are expected to mention the steps (procedures) taking to adjudge a company bankrupt and the consequences of such adjudication.

(b) You are expected to state the role a trustee plays in under bankruptcy law.