

EXAMINERS COMMENTS ON CORPORATE LAW PAPER
WINTER 2006

Following were the main shortcomings in the answers:

- Q.1 (a) Most of the examinees failed to mention the following important provisions:
- A single member or a nominated director is competent to exercise the powers that are normally vested in the board of directors of a company.
 - Important decisions of the single director should be in writing and minutes thereof should be recorded.
 - The requirement to file with the Registrar, a form containing particulars of the names of the nominee and alternate directors.
- Q.2 This question was generally well replied and 52% of the students obtained passing marks. However, a number of students failed to mention that the names of the attendees must be included in the minutes of the meeting. Also very few students discussed the issues relating to charges and timings of inspection of minutes of the meeting. Consequences of refusal to allow inspection of the minutes were barely discussed. Several students discussed the issues relating to the minutes of BOD meetings which were not required.
- Q.3 This question was also well answered and 63% of the students obtained passing marks. However, the point concerning the inclusion of contingent and anticipated liabilities of the company along with the existing liabilities was missed by most of the students.
- Q.4 The performance in this question was poor. Only about 20% of the students could quote the legal implications of default in payment as contained in Section 362(3) & 362(4) of the Companies Ordinance 1984. Only few could point out that there is no provision for filing a second declaration of solvency in the Companies Ordinance and that the remedy available to the financial institutions in such a situation is that they can file a petition to the court for winding-up the company under the supervision of the Court.
- Q.5 (a) Most students performed well and mentioned about the condition of getting permission letter from Board of Investment and filing thereof with the Registrar.
- (b) Only a limited number of candidates could properly state the provisions relating to statutory obligations of foreign companies other than those of filing of forms and accounts, as contained in Section 454 of the Companies Ordinance 1984.

- Q.6 This question was not comprehended by most of the students as only 9% of the students could obtain passing marks. A number of students stated the requirements of issuance of shares at a discount u/s Section 84 instead of mentioning the points which SECP considers prior to grant of approval of such requests. The point that SECP has the power to impose additional conditions was not mentioned even by those students who otherwise secured good marks in the question.
- Q.7 The replies to this question were of a poor standard. Knowledge of the Companies Share Capital (Variation in Rights and Privileges) Rules 2000 would have enabled the students to answer this question more adequately.
- Q.8 Generally, the answers to both the parts (a) and (b) were satisfactory and the students were able to mention the relevant items as contained in Rules 14 and Rule 12 of NBFC Rules 2003.
- Q.9 (a) This part was well attempted. However, only few students could mention that in case of an emergency, notice period for convening of meeting of BOD may be reduced or waived. While commenting on dissenting vote of a director, some students got confused and stated that a director should not vote on a matter in which he has a personal interest.
- (b) This question was answered in a haphazard manner and the two situations viz removal of the auditors and refusal of directors to call Extraordinary General Meeting were mixed up. Most of the students did not know about the provision contained in the Companies Ordinance 2001, whereby the shareholders could proceed to call an Extra Ordinary General Meeting if the directors refuse to do so and resolutions passed in such meeting are valid and binding on the company (For details refer to Section 159).
- Q.10 The replies to this question which related to Chapter XX - Securities Para 9 (a) of the Forex Manual (Trading of Quoted Shares by non-residents) were not up to the standard. It was evident that most of the students had not touched this topic at all.
- Q.11 This question was answered very satisfactorily and 86% of the students secured passing marks.
- Q.12 The question was answered well; however many students narrated the requirements contained in section 86 of the Companies Ordinance 1984 for issue of further capital by companies instead of stating the requirements of Rule 20(B) of the Modaraba Companies Rules 1981.

(THE END)