

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF PAKISTAN	
EXAMINERS' COMMENTS	
SUBJECT Corporate Laws	SESSION Certified Finance and Accounting Professional (CFAP) Examination - Winter 2017

General:

The overall performance in this attempt was poor as the passing percentage was 10.1% as compared to 20.5% in the previous attempt. The candidates suffered mainly because of selective studies as performance remained exceptionally poor in those areas which are less frequently tested such as Foreign Exchange Regulations, Modaraba Ordinance and Provident Fund Rules. Another major reason for poor performance was the candidates' inability to answer in the light of the given scenario. In many cases, the candidates mentioned the correct rules but could not conclude appropriately.

Question-wise comments:

Question 1

This question was based on a scenario in which shareholder of a private company wanted to sell his shareholding to his friend. The overall performance in this question was quite poor as only 6 % of the candidates secured passing marks and 43% of the candidates either did not attempt it altogether or obtained zero mark. The question consisted of two parts. Performance in each part is discussed below:

Question 1(a)

In this part of the question, the candidates were required to explain how the directors would respond if they believe that the agreed price exceeds the fair value of the shares. The performance remained very poor as most of the candidates were totally unaware of the objective with which the directors would respond in the given situation i.e. that they have to ensure that the shares are first offered to the existing shareholders. Further, the directors also have to see that the price fixed does not exceed the fair value because in that case the existing shareholders would not be inclined to purchase the shares, and fixation of a very high price may be a deliberate attempt to discourage the existing shareholders. The students are advised to see the ICAP's suggested answer to understand the relevant rules and how they are aimed at achieving the above objective.

A large number of candidates did not attempt this part altogether. Many candidates tried to link the situation with the rules related to public announcement of sale of shares. Some even considered it in the light of rules related to premium on right shares.

Question 1(b)

In this part of the question, the requirement was to explain how the directors would proceed if the shareholder agrees to reduce the share price to Rs. 275 which was the fair value of the shares. The performance remained poor but was slightly better than the performance in part (a).

The most common mistake was that the candidates believed that if any one of the existing shareholders declines to purchase the shares, the seller would be entitled to sell it to anybody he likes. Moreover, in this part also, many students tried to answer in the light of rules related to public announcement of sale of shares.

Question 2

This question was based on section 42 of the Companies Act, 2017. The overall performance remained good as about 48% of the candidates secured passing marks. The question consisted of two parts. The second part was further divided into two sub-parts. Performance in each part is discussed below:

Question 2(a)

This part required the candidates to explain the treatment of the surplus on assets or property of a company registered under section 42 of Companies Act, 2017 in the event of its dissolution. Majority of the candidates managed to answer in accordance with the said provisions.

Question 2(b)(i)

Generally, the candidates knew that no member can get remuneration even after quitting the association till the completion of a five year period. The main issue with most of the candidates was that they failed to understand the finer point i.e. that the member can be appointed as legal advisor but cannot receive any remuneration.

Question 2(b)(ii)

Generally, the candidates knew that donation shall have to be received through proper banking channel. However, most of them could not specify that donation from foreign sources is not allowed to be received without prior permission from relevant authorities even in case of donation transmitted through banking channels.

Question 3

This question was based on rules related to disposal and reacquisition of treasury shares. The overall performance was unsatisfactory as only 17% candidates secured passing marks. The question consisted of two parts. Performance in each part is discussed below:

Question 3(a)

The performance in this part remained average. Most of the students had reasonable understanding of the relevant provisions but were unable to apply them in the given situation. Some of the common errors were as follows:

- It was stated that the treasury shares cannot be sold within 12 months of their purchase whereas the period specified by law is 6 months.
- Maximum percentage of buy back i.e. 10 percent of paid up capital was either not mentioned or incorrectly stated.
- Mode of disposal of treasury shares was not mentioned.

Question 3(b)

The performance remained poor as the candidates did not seem to be well versed with the related provisions. Most common errors were as follows:

- The requirement related to disposal of shares under stock option scheme was not discussed.
- The requirement to communicate the Board's decision to Stock Exchange & SECP was not mentioned.
- Sale price mechanism and the restrictions on daily sales volume percentages were not explained correctly.

Question 4

This question was based on a scenario in which the trustees of a provident fund wanted to invest in 5 IPOs which were being floated and the candidates were required to advise them in this regard. The performance in this question remained below average as only 25% of the candidates secured passing marks. A significant number of candidates had no knowledge of the relevant rules; consequently, 20% of the candidates did not attempt this question whereas 7% scored zero marks. The common mistakes from the remaining candidates were as under:

- According to the rules, the maximum investment limit in any one company is 1% of the paid-up capital of the company or 2% of the size of the fund whichever is lower. Many students reversed the percentages whereas some of them considered the higher of the two as the limit instead of the lower of the two.
- Existing fund size was used instead of the fund size after investment, for the purpose of calculating the maximum investment.
- Investment in individual companies was discussed but limit on total investment in listed companies was not discussed.
- Some candidates mentioned the rules but did not carry out the calculations.

Question 5

This question was about SECP's powers of restricting the transfer of shares in a particular situation. It required the candidates to evaluate the scenario in the light of the provisions of section 272 of Companies Act. The performance remained below average as only 25% of the candidates secured passing marks. In this question also, a significant number of candidates had no knowledge of the relevant provision of the law; consequently, 11% of the candidates did not attempt this question whereas 16% scored zero marks. The common mistakes from the remaining candidates were as under:

- Several types of incorrect reasons were given based on which SECP may exercise its powers such as public interest, shareholders' interest, etc.
- While discussing the effects of registration, in most cases, only one or two points were mentioned.
- Restriction on change in directors and CEO was referred to as restriction on change in management.

Question 6

This question was based on the provisions of NBFCs and Notified Entities Regulations, 2008. From the performance of the students it was quite evident that area had been neglected in the studies. The overall performance remained very poor as only 4% of the candidates secured passing marks. Moreover, about 20% of the candidates could not secure any mark. Performance in each part is discussed below:

Question 6(a)

Barring few, the candidates were unaware of the meaning of the term 'Exposure'. Most of them used guesswork. Many among them tried to explain it in terms of their general knowledge about banking and economics. Some students described the maximum exposure criteria or the rules related to calculation of Exposure which were totally irrelevant to the requirement of the question.

Question 6(b)

The situation was similar to part (a) as only few students had any clue to the correct answer. Many students mentioned about requirement of transferring 20% of profit to general reserve which was totally irrelevant. Some students were of the view that revaluation reserve should not be taken in to account to calculate equity which was totally incorrect.

Question 6(c)

The requirement in this part was to state the conditions which must be complied by an NBFC to ensure prevention of money laundering and other illegal activities. This part was attempted well by majority of the candidates and some students achieved full marks also. However, some students attempted this part casually based on their general knowledge without any resemblance to law, relevant language and requirements, and obtained low marks.

Question 7

The question was based on a scenario relating to book building process and the overall performance was satisfactory but the performance in individual parts varied significantly. The question consisted of three parts and performance in each part is discussed below:

Question 7(a)

In this part the candidates were required to advise whether the company can raise the required amount, in the given situation, through the book building process. The performance remained below average as the candidates were unable to assess the situation in the light of the given scenario.

Question 7(b)

The requirement in this part was to explain how strike price is determined using the Dutch Auction Method. This part of the question was well attempted by most of the students. A significant number of students were however totally unaware of this method and did not attempt it altogether.

Question 7(c)

This was also a high scoring part and many students scored full marks. However, many students could mention one or two points only.

Question 8

This was one of the best attempted question and 56% of the candidates secured passing marks. In part (a)(i), most of the students stated correctly that the agreement was void but many of them failed to clarify that exemption in this regard may be applied for, from the Competition Commission.

In part a (ii) about 50% of the students scored high and even full marks. The remaining students mostly resorted to guesswork and mentioned irrelevant reasons such as employment generations, promoting a particular industry, etc.

In part (b), the response was average. Some students mentioned inappropriate reasons which were not in accordance with the relevant provision of the act i.e. expiry of time period, increase in prices, reduction in production, etc. Further, many candidates lost marks due to incomplete answers.

Question 9

This question required candidates to discuss the obligations of the board of directors during the offer period i.e. from the date of public announcement of the offer to purchase shares and till the validity of the offer and on completion of the acquisition.

This was also a well attempted question as about 51% of the candidates secured passing marks. The most common mistake was that while mentioning the restriction on transfer/disposal and encumbrance of assets, the fact that such restriction would apply to the subsidiary of the company also was ignored. Moreover, the obligation on completion of the acquisition was mostly ignored.

Question 10

This question based on Foreign Exchange Regulations was one of the worst attempted question. It was quite evident that most of the students had resorted to selective studies and had not prepared this area of syllabus. 29% of the students did not attempt it altogether whereas a further 25% could not secure any mark. It has been mentioned many times that all areas of the syllabus need to be covered to be successful. However, no improvement is being witnessed in this regard.

Question 11

This question required candidates to describe the circumstances in which an application of winding up of a modaraba may be filed and who may file such application. Extremely poor performance in this question was another indication of selective studies approach by the students. 28% students did not attempt this question whereas 12% of the students secured zero marks. Since the question was very straight forward, lack of knowledge/preparation seemed to be the only reason for poor performance.

(THE END)