

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF PAKISTAN	
EXAMINERS' COMMENTS	
SUBJECT Corporate Laws	SESSION Certified Finance and Accounting Professional (CFAP) Examination - Winter 2018

General:

The performance in this paper was very poor as only 16% candidates secured passing marks. Majority of the students suffered on account of selective studies as they displayed extremely low level of knowledge in some areas of the syllabus such as NBFC Rules, 2003, Anti-Money Laundering Act, 2010 and chapters related to amalgamation / liquidation of companies under the Companies Act, 2017.

Question-wise comments:

Question 1

The overall performance in this question was average as 34% candidates secured passing marks. The question consisted of three parts. The performance in each part is discussed below:

Question 1(a)

The performance in this part was good and many students scored full marks as well. Those students who did not know the answer relied on guesswork. Most such students suggested vigorous follow-up with the financial institution and lodging of complaint with SBP and SECP.

Question 1(b)

The performance in this part was poor. Many students stated that the director can assign his office which was incorrect. Majority of the candidates did not read the question carefully as they failed to realise that they were supposed to mention the other options available with the Director in the given situation and did not mention anything in this regard.

Question 1(c)

The performance in this part was average. Though several students scored full marks and there were a number of good performances but an equal number of students mixed up the role of SECP and Court. In the given situation SECP's responsibility was to appoint the investigator and based on his report SECP is required to decide whether the matter may be referred to the court and court may take various actions, but these students misunderstood the law and assumed that SECP could take these actions.

Question 2

This question consisted of two unrelated parts. The overall performance was satisfactory mainly because of good performance in part (b). The overall passing ratio was 39%. Performance in each part is discussed below.

Question 2(a)

This part was poorly attempted as majority of the students did not have any idea of the related rules. A lot of guesswork was noted as answers mostly included irrelevant matters such as impairment of investment, revised expected date of completion, disclosure in financial statements, irrelevant project details, etc.

Most of the students could only mention one correct point i.e. about the reasons for delay.

Question 2(b)

This part was well attempted. A large majority of the students knew the criteria based on which a director is considered as a non-executive director although the condition relating to beneficial ownership of the company or any of its associated companies or undertakings was missed in several cases. Further, the circumstances under which he/she would be considered liable was attempted in an average manner.

Question 3

This question on postal ballot regulations was the best attempted question of the paper although the passing ratio at 46% was not very high. Many students were totally confused and tried to discuss e-voting instead of postal ballot. While discussing the procedure for voting many candidates mentioned that the members should send the ballot papers to the company rather than the chairman of the meeting. Moreover, the provisions related to foreign members, corporate bodies and the federal government were missed. Further, while discussing the responsibilities of the chairman, many students did not care to remain restricted to his responsibilities with regard to postal ballot and narrated the other responsibilities.

Question 4

Only 21% candidates secured passing marks in this question. The common errors were as follows:

- Majority of the candidates did not clearly specify that separate special resolutions would be required for approval related to employees of the company and separate resolution would be required for employees of the subsidiary.
- While mentioning the information to be shared in the statement of facts, many students appeared quite casual.
- Many students used the words shares to be issued instead of options to be granted.
- Most of the students presumed that exercise period and vesting period represented the same thing.
- Most of the students mixed up the requirement of part (a) and (b) and inter-changed the points in the answers.

Question 5

This was a very poorly attempted question as only 4% of the candidates secured passing marks. It consisted of two parts. The performance in each part is discussed below:

Question 5(a)

According to the scenario in this question an NBFC (IL) wanted to invest in an unlisted company (ML). Relevant extracts from the financial statements of IL and certain other information was provided in the question and the candidates were required to determine the maximum number of shares of ML which IL could purchase while adhering to the requirements of NBFC Rules, 2003.

The performance remained extremely poor. Most of the candidates were not aware of the three conditions which were required to be met i.e. (i) Investment in unlisted securities should not exceed 20% of the equity of the NBFC (ii) Investment in a single unlisted company should not exceed 10% of the equity of the NBFC and (iii) number of shares in a particular company shall not 10% of its total number of issued shares. Further, the students were also not sure about computation of equity of IL for the purpose of this rule. Almost nobody explained why the preference shares were or were not included in the equity. Moreover, in many cases revaluation reserve was included in equity which was incorrect.

Even those students who knew the requirements were not able to apply it in the given situation.

Question 5(b)

In this part of the question, the candidates were required to mention the condition applicable to an NBFC for making strategic investment in another NBFC or (Financial Services Company). The performance remained average as majority of the students gave partially correct answers.

Question 6

This was also a poorly attempted question as only 11% of the candidates secured passing marks. It consisted of two parts. The performance in each part is discussed below:

Question 6(a)

In this part the candidates were required to explain how a holding company and its wholly owned subsidiaries amalgamate without going through the normal amalgamation process. The performance was very poor. Most of the candidates mentioned about obtaining court's approval which clearly showed that they did not have any clarity on the issue. Those who were aware of the procedure mostly omitted a very important condition i.e. that the subsidiaries should be wholly owned. Many of them also omitted the condition of sending notice to secured creditors.

Question 6(b)

This question was about a company under liquidation which had settled all its liabilities and had received an offer for sale of a part of its remaining assets in lieu of shares of the buying company. The requirement was to suggest the course of action for the liquidator where the liquidator intends to accept the proposal but a shareholder holding 10% shares had raised objection to the said proposal.

The overall performance was average as generally the students knew some but not all the related requirements.

Question 7

The overall performance in this question was satisfactory as 38% candidates secured passing marks. The question consisted of two parts. The performance in each part is discussed below:

Question 7(a)

According to the scenario in this part of the question, a private limited company (RPL) holding 20% shares in a listed company (BL) wanted to purchase a further 15% of the shares of BL.

In sub part (i), the candidates were required to explain whether it was necessary to appoint a manager to the offer and who can be appointed as the Manager to the Offer. Majority of the students answered in the affirmative which was correct. However, they lost marks because no reason was given in this regard. Further, while discussing who could be appointed as the manager to the offer, majority of the students failed to mention that an associate or a group company of the acquirer or the target company cannot be appointed as the manager to the offer.

In sub part (ii) the requirement was to discuss how the minimum price to be offered shall be determined under the Listed Companies (Substantial Acquisition of Voting Shares & Takeovers) Regulations, 2017.

The Regulations specify 5 different ways of calculating the maximum price and the highest among them is to be treated as the minimum price. Some of the students did not state the most important condition of taking the highest price. Moreover, very few of the candidates could mention all the five methods of determining the price correctly. Most commonly, there was a lot of confusion between public announcement of intention and public announcement of offer.

Question 7(b)

In this part, the scenario in part (a) was extended further i.e. it was assumed that RPL had made the offer to purchase 15% shares but KL who also held 12% shares in BL also wanted to make an offer of purchasing further shares.

The requirement was to specify the conditions in the light of Securities Act, 2015 applicable to KL for making competitive bid and the course of action available to RPL if KL makes the bid.

With regard to making of a competitive bid by KL, majority of the students failed to mention that the offer should be of at least the same number of shares as had been offered by RPL. Some candidates also mentioned “same number of shares” instead of “at least the same number of shares”.

With regard to options available with RPL if KL also makes an offer, most of the candidates failed to mention the implications on RPL if it does not withdraws its offer and does not make a further offer either.

Question 8

This was another very poorly performed question as only 5% candidates secured passing marks. The question was based on Anti-Money Laundering Act, 2010. The requirement was quite simple and therefore it was quite clear that majority of the students had resorted to selective studies and had not studied this area altogether. A further evidence of the same was the fact that 23% of the candidates did not attempt this question altogether.

Question 9

The overall performance in this question was satisfactory as 38% candidates secured passing marks. The question consisted of two parts. The performance in each part is discussed below:

Question 9(a)

The requirement in this part was to list the conditions under which a listed company may be placed under the Default Counter of the Pakistan Stock Exchange. The performance remained below average as most of the students missed several conditions. Only two conditions were mentioned correctly in most cases i.e. failure to hold general meeting and failure to pay listing fee. Another common error was that instead of mentioning about failure to comply with PSX regulations the candidates mentioned SECP instead of PSX.

Question 9(b)

This part on requirement of free float was well attempted by majority of the students. However, many students gave totally irrelevant suggestions such as buy back of shares, sales of treasury shares, etc.

Question 9(c)

In this part, the candidates were required to discuss those conditions which become applicable in case of a right issue where price of shares remains below par value during the preceding six months. The performance remained below average as many students could not understand the requirement of the question and tried to mention all the conditions that are required to be fulfilled but did not mention those conditions which were being referred to in the question.

(THE END)