

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF PAKISTAN
CERTIFIED FINANCE AND ACCOUNTING PROFESSIONAL (CFAP) EXAMINATION
EXAMINERS' COMMENTS

SUBJECT Corporate Laws	SESSION Winter 2019
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Passing %

Question-wise									Overall
1	2	3	4	5	6	7	8	9	
25%	27%	16%	18%	38%	17%	68%	68%	39%	29%

General comments

The overall performance slightly improved as 29% examinees secured passing marks compared to 23% in the previous session. However, it was observed that many examinees wasted their time in producing full provisions of the law without considering the requirement of the question and as a result failed to answer all the questions. Examinees are therefore advised to organize their time effectively, read the question carefully and stick to the requirements of the question as they would not earn any extra marks by writing irrelevant details.

Question-wise common mistakes observed

Question 1(a)

- While mentioning the basis for the determination of minimum purchase price:
 - examinees correctly stated that current market price should be considered. However, they failed to appreciate that the market price should be of the date on which PSX received intimation for voluntary de-listing.
 - many examinees incorrectly stated the breakup value of share instead of its intrinsic value.
- Many examinees failed to comprehend that:
 - minimum percentage of shares to be purchased by sponsors would be determined by the Exchange.
 - in case of disagreement with the decision of the Exchange for the purchase of minimum number of shares, the sponsors have a right to file an appeal with the Commission within 10 days of receipt of communication from the exchange.
 - the decision taken by Commission shall be final and binding regarding price.
 - the final minimum purchase price of the securities to be de-listed shall be fixed with the approval of the Exchange.

Question 1(b)

- Exact date by which to rectify the non-compliance was not mentioned.
- Examinees failed to appreciate that after rectification (submission of annual fees), OTL would be required to submit an application for restoration of trading.
- Examinees correctly stated that Exchange will issue direction for compulsory buy back of shares but they did not mention to whom such direction would be issued and the time limit within which sponsors will have to buy back the shares.

Question 2(a)

- The concept that the company cannot enter into an arrangement for acquiring asset(s) for consideration other than cash was not identified by many examinees.
- Examinees also failed to identify that since Ahmad Laiq was a director in HL's holding company, approval was also required by passing a special resolution in general meeting of the holding company.
- 'Ordinary' resolution was to be passed instead of 'Special' resolution.

Question 2(b)

Examinees did not mention that the Commission may allow registration of the company for a period to be specified in the application.

Question 2(c)

- Examinees correctly stated the requirement to file the special resolution with the registrar. However, they failed to mention that such copy of resolution shall be authenticated by a director or secretary of the company.
- Examinees were unable to identify that when articles have been registered, a copy of every special resolution for the time being in force shall be embodied in or annexed to every copy of the articles issued after the date of the resolution.
- Examinees also ignored the fact that copy of every special resolution shall be provided to any member upon his request and on payment of prescribed fees.
- Few examinees mentioned requirements relating to memorandum of association which was not required.

Question 2(d)

- Examinees failed to appreciate that special resolution was required to be signed by all the directors for the time being entitled to receive notice of directors' meeting.
- Examinees were ignorant of the fact that matters in Table A becomes applicable if nothing is mentioned in Articles of Association of the company.
- Similarly, they did not mention that a directors' agreement to a written resolution, passed through circulation, once signified, may not be revoked.

Question 3(a)

- Few examinees were able to identify one or two requirements correctly, whilst most of them were confused and deliberated on the requirements of directors' report as specified in the Companies Act, 2017.
- Most of the answers were incomplete and examinees failed to write anything about the following matters:
 - Remuneration policy of non-executive and independent directors.
 - The reason for the appointment of an auditor other than the retiring auditor.
 - Appointment of external independent consultants and their terms of reference.

Question 3(b)

- Examinees did not understand the requirements of the question and confused it with Board's Human Resources Committee.
- Only few examinees discussed the responsibilities of the Committee in respect of the structure, size and composition of the board and made recommendations to the board with regard to any necessary changes.

Question 4(a)

- Very few examinees knew that the permission is granted only under extraordinary circumstances.
- Most of the answers were confined to offering only one reason on the basis of which extension may be granted.
- Examinees were unable to state that the company had to apply through the book runner after obtaining NOC from PSX.
- Examinees were ignorant of the fact that NOC should be obtained from the Exchange before applying to the Commission for extension.

Question 4(b)

- Examinees failed to appreciate that book building process would be considered as cancelled if extension is not granted.
- Examinees were aware that margin money would be refunded to the bidders, however they were ignorant of the time period within which such amount was to be returned.

Question 4(c)

Good performance was noted in this part.

Question 5

- In case of average dividend, examinees did not consider the average dividend paid during two out of three preceding consecutive years.
- Percentage of annual profit distributed to the shareholders was taken as percentage of dividend paid. In fact, they were required to compute the dividend payout percentages from the data given in the question.
- Without regard to the number of shares, only the amount of free float was stated by majority of the examinees.
- Examinees discussed the limit of investment in listed securities which was not required at all.

Question 6

- The reporting requirement for Moosa on becoming director and changes in beneficial ownership was correctly answered. However, the information to be submitted such as details of shares, date of acquisition of beneficial ownership, was missing in most of the answers.
- Examinees also unnecessarily discussed provisions related to the substantial acquisition of voting shares.
- The period within which the gain on sale of shares had to be deposited was ignored.
- Majority of the examinees were not aware of the provisions of law relating to the gain on 'purchase and sale' and 'sale and purchase'.

Question 7

- Examinees failed to mention the time limit within which GL was required to provide information to the members relating to e-voting.
- Examinees were also ignorant of the fact that once the vote on a resolution is casted by a member, he shall not be allowed to change it subsequently.

Question 8

- Examinees failed to appreciate that the Commission is the final authority in determining the status of a director as independent or otherwise.
- Examinees were ignorant of the fact that decision of investment in unlisted company is required to be communicated to the Commission within 14 days of board meeting along with the copy of the minutes.

Question 9(a)

Examinees failed to identify that contingent and prospective creditor may also file the petition and that petition could be filed by all or any of the parties (i.e. company, creditors and contributory) together or separately.

Question 9(b)(i)

Good performance was observed in this part of the question.

Question 9(b)(ii)

Examinees ignored the fact that creditors cannot file suit against NL and that they must lodge their claim with liquidator.

(THE END)