



**STRATHMORE LAW SCHOOL
MASTER OF LAWS (LL.M)
SUPPLEMENTARY EXAMINATION
LLM 8314: LEGAL ASPECTS OF INTERNATIONAL FINANCE**

Date: Friday, 10th May 2024

Time: 3 Hours

Instructions

1. This examination consists of **FIVE** questions. Answer **THREE** questions in total.
2. Question **ONE** in Part A is **COMPULSORY**.
3. Please answer any other **TWO** questions in Part B.
4. All questions carry equal marks (20%). The mark obtained in this examination (up to 60%) will be added to the coursework mark (up to 40%) to give the total mark in this module.
5. This is a closed-book examination.
6. You should spend a fair amount of time organizing your thoughts before starting to write.
7. Careful organization and clarity will be highly valued.
8. Please start each question on a new page.

Part A.

Question 1 is compulsory.

Please advise the parties on the issues that arise from the facts below basing on the Loan Markets Association (LMA) documentation and other authorities.

- (a) Your firm's long-standing and valuable client in Nairobi, John, insists that you should negotiate for a new LIBOR loan for him because LIBOR loans have always worked best for him.
- (b) Last year, your client, Nelly, obtained a five year bank loan with an interest rate of 8% per annum. The loan had the following provisions that she did not pay attention to at the time.
"Prepayment of the loan before maturity will attract interest at 30% of the total loan amount.
"Default on any payment of the loan will attract interest at 15% per annum, a collection fee of 15% of the total amount, and 10% monitoring fee."
She missed two monthly instalments, and the bank charged her the default payments which she contests. When she obtained alternative funds to pay off the loan, the bank indicated that it would charge the early repayment fees.
- (c) The documents that ACME Ltd signed last year when it obtained a loan from XYZ bank provided that ACME Ltd had performed its own due diligence and was not relying on truthfulness or completeness of any information provided by XYZ bank. ACME Ltd had obtained the loan to buy units in an overseas investment fund that were promoted and sold by XYZ bank. ACME recently discovered that the bank had concealed the fact that the overseas investment fund was the subject of an investigation by the regulators. The regulators closed down the investment fund six months ago and ACME Ltd lost its investment. It wants to recover his losses from the bank.
- (d) Lato Ltd earned its revenue in dollars by exporting flowers to a company in Ukraine. It contracted an international loan five years ago that was payable in United States dollars (USD). Due to the Russia-Ukraine conflict that disrupted its export business, Lato invoked the *force majeure* clause in the contract and notified its creditor that Lato could not obtain the required dollars to service the loan. It offered Kenyan shillings in payment which the creditor declined.

Part B.

Answer TWO questions from this part.

2. Discuss the importance of boilerplate clauses in financial contracts in your country.

3. What are the respective roles of the arranger and the agent bank in syndicated loans, and what are their potential legal liabilities?
4. What are the protective provisions in financial documents, and what issues have arisen in recent case law concerning those provisions?
5. Some people assert that project finance is the best illustration of non-recourse finance. Do you agree with this assertion; and if so, what are its implications?