



CORPORATE LAWS & GOVERNANCE

PROFESSIONAL 1 EXAMINATION – JULY 2019

Section A - Answer Questions **1 and 2** and **either** Question **3 or 4**

Section B - Answer **either** Question **5 or 6**

TIME ALLOWED:

3 hours, plus **10 minutes** to read the paper

INSTRUCTIONS:

During the reading time you may write on the examination paper, but you may not commence writing in your answer book. **Please read each Question carefully.**

Marks for each question are shown. The pass mark required is 50% in total over the whole paper.

Start your answer to each question on a new page.

You are reminded to pay particular attention to your communication skills, and care must be taken regarding the format and literacy of your solutions. The marking system will take into account the content of your answers and the extent to which answers are supported with relevant legislation, case law or examples, where appropriate.

List of the cover of each answer booklet, in the space provided, the number of each question attempted.

SECTION A – QUESTION 1 & 2 ARE COMPULSORY AND MUST BE ATTEMPTED

Jam Café is a chain of high-end coffee shops in Beeland that also caters to parties, weddings, and various other outdoor activities. It was founded by socialites Maya Thomas and Chrissy Tempola five years ago.

Following Jam Café's impressive performance over the past three years, Maya and Chrissy plan to expand the business, either by entering into a franchise agreement with a third party or list Jam Café in the Malta Stock Exchange and raise sufficient capital to expand organically. Maya and Chrissy understands that listing a company will require compliance with various rules and regulations of the Securities and Exchange Commission, including corporate governance and preparation of quarterly financial reports.

You are a management consultant hired by Maya and Chrissy to investigate the expansion methods available to the business, and, in particular, the option of listing the company or using a franchise model to develop the business.

QUESTION 1

Required:

Explain to Maya and Chrissy the following,

- a) The main characteristics of a Public Limited Company, and comment specifically on the meaning and the impact of the company becoming a separate legal entity. (10 marks)**
- b) Distinguish, using examples, between mandatory and voluntary disclosures in the annual reports of public listed companies. (5 marks)**
- c) Explain why the disclosure of voluntary information in annual reports can enhance the company's accountability to equity investors. (5 marks)**
- d) Explain what is meant by corporate governance. (5 marks)**

(25 marks)

Last week, Jam Café was approached by a multinational company wishing to invest in Jam Café. They hope to launch the company into the stock market within the next year and expand the business internationally. If Maya and Chrissy agrees to the proposal, they will be appointed to the board as non-executive directors.

QUESTION 2

Required:

- a) Distinguish between executive and non-executive directors, and explain the principal role of a non-executive director. (5 marks)**

- b) Critically review the duty of care and skill imposed upon company directors and the consequent sanctions arising from a breach of this duty. (7 marks)**

- c) Examine the role and responsibilities of non-executive directors in enhancing corporate governance in an organisation. (13 marks)**

(25 marks)

ANSWER EITHER QUESTION 3 OR 4

QUESTION 3

Jeremy's uncle, Gerard, recently died and under the terms of his uncle's will Jeremy has inherited shareholdings in two different companies, as follows:

(1) He inherited 100,000 €1 ordinary shares in Jagro Ltd. When Jeremy received a copy of the share certificate in respect of these shares it stated that these shares were partly-paid in the amount of €0.30 per €1 share.

(2) He inherited 50,000 €1 preference shares in Lithium Ltd. These shares were purchased at a premium of €0.40 on every €1 share sold.

Jeremy has recently received notice of a meeting organized by Jagro Ltd, in which they are proposing to increase the company's issued share capital by executing a rights issue. They are proposing to allow shareholders to purchase one additional share for every five held, and are also proposing that the company provides financial assistance to any shareholder who requests it to affect this purchase. As Jeremy knows nothing about company law, he has contacted you seeking advice regarding these matters.

Requirement:

- a) Analyze the nature of the ordinary shares that Jeremy has inherited in Jagro Ltd, commenting specifically on his rights and obligations in relation to these shares if this company is placed in liquidation. (7 marks)**
- b) In relation to the shares that Jeremy inherited in Lithium Ltd, review the rules that apply where a company issues shares at a premium. (6 marks)**
- c) Evaluate the rules in relation to the issue of shares for non-cash consideration. (7 marks)**

(20 marks)

QUESTION 4

Adam is a majority shareholder in Braybrook Ltd, holding 30% of the issued capital in the company, which he inherited from his father upon his death. Despite the fact that Adam is a major shareholder, he is not a company director, and in fact he has clashed with the directors of the company, his two uncles, on numerous occasions in the past and often used his shareholding to veto the passing of special resolutions. Last month, Adam booked a month long holiday for himself and his family, and within one week of making this booking he received notice of an extraordinary general meeting (egm) being convened by Braybrook Ltd for the purpose of effecting an alteration to the company's Articles of Association removing the right of preemption, and increasing the issued share capital of the company by allowing the directors to purchase company shares. If these alterations are effected it will result in the reduction of Adam's shareholding from 30% to 24% and will effectively mean that Adam will not be able to prevent the directors from passing special resolutions.

As Adam was due to be away on holidays on the day of the proposed meeting he contacted Jake, the company secretary, informing him that he wanted his sister, Martha to attend the meeting as his proxy. However, he subsequently received a letter from Martha stating that the directors are refusing to allow a proxy to attend this meeting, and stating that he was required to attend personally, or that the resolution would be dealt with in his absence. Adam decided to attend the meeting to prevent the passing of these resolutions, but following a vote (based on a show of hands) the directors refused to allow a poll vote to take place, and as the two directors voted in favor of these resolutions they were deemed passed, despite Adam's protests. Adam has now contacted you for advice regarding the legality or otherwise of the actions of Braybrook Ltd's directors.

Requirement:

- a) Evaluate the procedure to be followed to alter the Articles of Association, and the rules that apply in determining the validity or otherwise of any such alteration. In light of this evaluation, determine whether the proposed alteration by the directors of Braybrook Ltd is in compliance with these requirements. (10 marks)**

- b) Explain the main distinction between voting at company meetings based on a show of hands as opposed to a poll, and list the various parties who can request a poll vote. (10 marks)**

(20 marks)

SECTION B – ANSWER EITHER QUESTION 5 OR 6

QUESTION 5

‘The board’s role is to provide entrepreneurial leadership of the company within a framework of prudent and effective controls which enables risk to be assessed and managed.’

Financial reporting Council, frC guidance on board effectiveness

Requirement:

With reference to the above quotation from the frC:

- a) Discuss the role played by executive directors on the board in securing effective corporate governance outcomes. (10 marks)**
- b) Evaluate the components and characteristics of the decision-making processes an effective board would be expected to demonstrate. (20 marks)**

(30 marks)

QUESTION 6

You are a newly qualified accountant working for Palm PLC. You have been tasked to prepare a document for the newly appointed Chair of the Audit Committee. She has requested that a briefing note be compiled that covers the following issues.

Requirement:

- a) Discuss the key issues relating to the audit committee and the relationship it has with the board of directors. (9 marks)**
- b) The role and responsibilities of the audit committee as part of corporate governance arrangements. (18 marks)**

(3 Professional marks)

(30 marks)

END OF QUESTION PAPER