



Module Outline

Module Title: Introduction to Banking Law

QF Level: Reference is being taken to HKQF Level 4

Programme Credit: 10 Credits for the Advanced Diploma of Certified

Banker (9 training hours and 1.5 examination hours)

Training Class

Teaching/Training & Learning

Activities: N/A

Pre-requisite:

Module Objective:

This module aims to equip learners with the fundamental but essential knowledge on the general principles of legal concepts related to banking and finance. It also helps them to understand the relevant application of laws and regulations, and to comply with relevant laws, regulations and internal policies.

Module Intended Learning Outcome (MILO) and Unit of Competency (UoC)

Upon completion of the module, learners should be able to:

MILO1:	Apply relevant laws and regulations, and comply with internal policies relating to the banking industry when executing tasks, tackling business issues, and handling requests from law enforcement agencies and regulatory bodies;
MILO2:	Develop a fair and cordial banker-customer relationship through the application of relevant laws, regulations and codes of conduct; and
MILO3:	Understand the rights and liabilities of the bank and its customers when dealing with negotiable instruments in order to comply with the legal requirements.

Assessment Activity

Type of Assessment Activity	MILOs	Weighting (%)
Examination	MILO 1-3	100

Examination Format and Duration

Time allowed: 1.5 hours

The examination consists of 50 multiple choice questions

Passing mark for this subject is 70%





Syllabus

1. Sources of Laws Applicable to the Banking Industry 1. Introduction 1.2 The Basic Law of the HKSAR 1.3 Legislation Banking Ordinance Financial Institutions (Resolutions) Ordinance Securities and Futures Ordinance Anti-money laundering legislation Personal Data Privacy Ordinance Prevention of Bribery Ordinance Bills of Exchange Ordinance Inland Revenue Ordinance Inland Revenue Ordinance Anti-discrimination legislation Competition Ordinance Anti-discrimination legislation Competition Ordinance The Regulatory guidelines Regulatory guidelines The essential of a valid contract 2.2 Intention to create legal relations 2.3 Formalities: forms of a contract 2.4 Capacity 2.5 Terms of a contract 2.6 Misrepresentation 2.7 Undue influence 2.8 Discharge of a contract 2.9 Effect of breach of contract 2.10 Limitation of action 3 Other Relevant Banking Laws 3.1 Trust law 3.2 Insolvency law 3.3 Land law relating to mortgages 3.4 Agency law 3.5 Law of guarantee Chapter 2: Regulatory Framework in Banking and Financial Markets	Chapte	Chapter 1: Basic Legal Principles		
1.2 - The Basic Law of the HKSAR - Legislation - Banking Ordinance - Financial Institutions (Resolutions) Ordinance - Securities and Futures Ordinance - Anti-money laundering legislation - Personal Data Privacy Ordinance - Prevention of Bribery Ordinance - Companies Ordinance - Bills of Exchange Ordinance - Inland Revenue Ordinance - Inland Revenue Ordinance - Anti-discrimination legislation - Competition Ordinance - Anti-discrimination legislation - Competition Ordinance - Anti-discrimination legislation - Competition Ordinance - Inland Revenue Ordinance - Intervention ordinance - Intervention ordinance - Intervention or deate legal relations - Formalities: forms of a contract - Capacity - Terms of a contract - Induction ordinance - Misrepresentation - Undue influence - Bills of Exchange Ordinance - Intervention ordinance - Intervent	1	Sources of Laws Applicable to the Banking Industry		
1.3 - Legislation - Banking Ordinance - Financial Institutions (Resolutions) Ordinance - Securities and Futures Ordinance - Anti-money laundering legislation - Personal Data Privacy Ordinance - Prevention of Bribery Ordinance - Companies Ordinance - Bills of Exchange Ordinance - Inland Revenue Ordinance - Anti-discrimination legislation - Competition Ordinance - Anti-discrimination legislation - Common law & equity - Regulatory guidelines 2 Law of Contract in Banking - The essential of a valid contract - Intention to create legal relations - Formalities: forms of a contract - Agacity - Terms of a contract - Misrepresentation - Undue influence - Bills of Exchange Ordinance - Anti-discrimination - Competition Ordinance - Common law & equity - Regulatory guidelines 2 Law of Contract in Banking - The essential of a valid contract - Limiton to create legal relations - Formalities: forms of a contract - Jeffect of breach of contract - Discharge of a contract - Limitation of action 3 Other Relevant Banking Laws - Limitation of action 3 Other Relevant Banking Laws - Insolvency law - Land law relating to mortgages - Agency law - Law of guarantee	1.1	- Introduction		
Banking Ordinance Financial Institutions (Resolutions) Ordinance Securities and Futures Ordinance Anti-money laundering legislation Personal Data Privacy Ordinance Companies Ordinance Inland Revenue Ordinance Inland Revenue Ordinance Anti-discrimination legislation Competition Ordinance Anti-discrimination legislation Competition Ordinance Anti-discrimination legislation Common law & equity Regulatory guidelines Law of Contract in Banking Anti-discrimination legislation Common law & equity Regulatory guidelines Law of Contract in Banking Anti-discrimination legislation Common law & equity Anti-discrimination Common law equ				
Financial Institutions (Resolutions) Ordinance Securities and Futures Ordinance Anti-money laundering legislation Personal Data Privacy Ordinance Prevention of Bribery Ordinance Companies Ordinance Bills of Exchange Ordinance Inland Revenue Ordinance Anti-discrimination legislation Competition Ordinance Common law & equity Regulatory guidelines Law of Contract in Banking 1.4 2.1 Intention to create legal relations 2.3 Formalities: forms of a contract Capacity Terms of a contract Misrepresentation Indue influence Nisrepresentation Tudue influence Bills of Exchange Ordinance Competition Ordinance Competition Ordinance Intention to create legal relations Intention to create legal relations Capacity Intention to create legal relations Limitation of a contract Limitation of a contract Discharge of a contract Limitation of action Other Relevant Banking Laws Trust law Land law relating to mortgages Agency law Land law relating to mortgages Law of guarantee	1.3	- Legislation		
Securities and Futures Ordinance Anti-money laundering legislation Personal Data Privacy Ordinance Companies Ordinance Bills of Exchange Ordinance Inland Revenue Ordinance Competition Ordinance Anti-discrimination legislation Competition Ordinance Anti-discrimination legislation Competition Ordinance Anti-discrimination legislation Common law & equity Regulatory guidelines Law of Contract in Banking Anti-discrimination legislation Common law & equity Regulatory guidelines Law of Contract in Banking Anti-discrimination to create legal relations Anti-discrimination Anti-discriminati		Banking Ordinance		
Anti-money laundering legislation Personal Data Privacy Ordinance Prevention of Bribery Ordinance Companies Ordinance Bills of Exchange Ordinance Inland Revenue Ordinance Anti-discrimination legislation Competition Ordinance Common law & equity Regulatory guidelines Law of Contract in Banking The essential of a valid contract Intention to create legal relations Terms of a contract Capacity Terms of a contract Undue influence Discharge of a contract Undue influence Discharge of a contract Initiation of action Other Relevant Banking Laws Trust law Substance of Banking Laws Trust law Substance of Banking Laws Insolvency law Substance of Banking Laws Agency law Substance of Banking to mortgages Agency law Substance of Banking to mortgages Agency law Substance of Banking Laws Capacity Law of guarantee		 Financial Institutions (Resolutions) Ordinance 		
Personal Data Privacy Ordinance Prevention of Bribery Ordinance Companies Ordinance Inland Revenue Ordinance Anti-discrimination legislation Competition Ordinance Anti-discrimination legislation Common law & equity Regulatory guidelines Law of Contract in Banking 1.1 The essential of a valid contract 2.2 Intention to create legal relations 2.3 Formalities: forms of a contract 2.4 Capacity 2.5 Terms of a contract 2.6 Misrepresentation 2.7 Undue influence 2.8 Discharge of a contract 2.9 Effect of breach of contract 2.10 Limitation of action Other Relevant Banking Laws 3.1 Trust law 3.2 Insolvency law 3.3 Land law relating to mortgages 3.4 Agency law 3.5 Law of guarantee		 Securities and Futures Ordinance 		
Prevention of Bribery Ordinance Companies Ordinance Bills of Exchange Ordinance Inland Revenue Ordinance Anti-discrimination legislation Competition Ordinance Regulatory guidelines Law of Contract in Banking 1.5 - Regulatory guidelines Law of Contract in Banking 2.1 - The essential of a valid contract 2.2 - Intention to create legal relations 2.3 - Formalities: forms of a contract 2.4 - Capacity 2.5 - Terms of a contract 2.6 - Misrepresentation 2.7 - Undue influence 2.8 - Discharge of a contract 2.9 - Effect of breach of contract 2.10 - Limitation of action Other Relevant Banking Laws 3.1 - Trust law 3.2 - Insolvency law 3.3 - Land law relating to mortgages 3.4 - Agency law 3.5 - Law of guarantee		 Anti-money laundering legislation 		
Companies Ordinance Bills of Exchange Ordinance Inland Revenue Ordinance Anti-discrimination legislation Competition Ordinance Regulatory guidelines Law of Contract in Banking Intention to create legal relations Intention of a contract Intention of a contr		Personal Data Privacy Ordinance		
 Bills of Exchange Ordinance Inland Revenue Ordinance Anti-discrimination legislation Competition Ordinance Common law & equity Regulatory guidelines Law of Contract in Banking The essential of a valid contract Intention to create legal relations Formalities: forms of a contract Capacity Terms of a contract Misrepresentation Misrepresentation Undue influence Effect of breach of contract Effect of breach of contract Limitation of action Trust law Insolvency law Agency law Law of guarantee 		Prevention of Bribery Ordinance		
Inland Revenue Ordinance Anti-discrimination legislation Competition Ordinance Regulatory guidelines Law of Contract in Banking Intention to create legal relations Intention to create legal		Companies Ordinance		
Anti-discrimination legislation Competition Ordinance Common law & equity Regulatory guidelines Law of Contract in Banking Intension to create legal relations Formalities: forms of a contract Capacity Terms of a contract Misrepresentation Undue influence Discharge of a contract Effect of breach of contract Limitation of action Other Relevant Banking Laws Insolvency law Agency law Agency law Agency law Law of guarantee		Bills of Exchange Ordinance		
- Competition Ordinance 1.4 1.5 - Common law & equity - Regulatory guidelines 2 Law of Contract in Banking 2.1 - The essential of a valid contract 2.2 - Intention to create legal relations 2.3 - Formalities: forms of a contract 2.4 - Capacity 2.5 - Terms of a contract 2.6 - Misrepresentation 2.7 - Undue influence 2.8 - Discharge of a contract 2.9 - Effect of breach of contract 2.10 - Limitation of action 3 Other Relevant Banking Laws 3.1 - Trust law 3.2 - Insolvency law 3.3 - Agency law 3.4 - Agency law 3.5 - Law of guarantee		 Inland Revenue Ordinance 		
1.4 Common law & equity Regulatory guidelines 2		Anti-discrimination legislation		
1.5 - Regulatory guidelines 2		Competition Ordinance		
2 Law of Contract in Banking 2.1 - The essential of a valid contract 2.2 - Intention to create legal relations 2.3 - Formalities: forms of a contract 2.4 - Capacity 2.5 - Terms of a contract 2.6 - Misrepresentation 2.7 - Undue influence 2.8 - Discharge of a contract 2.9 - Effect of breach of contract 2.10 - Limitation of action 3 Other Relevant Banking Laws 3.1 - Trust law 3.2 - Insolvency law 3.3 - Land law relating to mortgages 3.4 - Agency law 3.5 - Law of guarantee	1.4			
2.1 - The essential of a valid contract 2.2 - Intention to create legal relations 2.3 - Formalities: forms of a contract 2.4 - Capacity 2.5 - Terms of a contract 2.6 - Misrepresentation 2.7 - Undue influence 2.8 - Discharge of a contract 2.9 - Effect of breach of contract 2.10 - Limitation of action 3 Other Relevant Banking Laws 3.1 - Trust law 3.2 - Insolvency law 3.3 - Land law relating to mortgages 3.4 - Agency law 3.5 - Law of guarantee	1.5	- Regulatory guidelines		
2.2 - Intention to create legal relations 2.3 - Formalities: forms of a contract 2.4 - Capacity 2.5 - Terms of a contract 2.6 - Misrepresentation 2.7 - Undue influence 2.8 - Discharge of a contract 2.9 - Effect of breach of contract 2.10 - Limitation of action 3 Other Relevant Banking Laws 3.1 - Trust law 3.2 - Insolvency law 3.3 - Land law relating to mortgages 3.4 - Agency law 3.5 - Law of guarantee	2	Law of Contract in Banking		
2.3 - Formalities: forms of a contract 2.4 - Capacity 2.5 - Terms of a contract 2.6 - Misrepresentation 2.7 - Undue influence 2.8 - Discharge of a contract 2.9 - Effect of breach of contract 2.10 - Limitation of action 3 Other Relevant Banking Laws 3.1 - Trust law 3.2 - Insolvency law 3.3 - Land law relating to mortgages 3.4 - Agency law 3.5 - Law of guarantee	2.1	- The essential of a valid contract		
2.4 - Capacity 2.5 - Terms of a contract 2.6 - Misrepresentation 2.7 - Undue influence 2.8 - Discharge of a contract 2.9 - Effect of breach of contract 2.10 - Limitation of action 3 Other Relevant Banking Laws 3.1 - Trust law 3.2 - Insolvency law 3.3 - Land law relating to mortgages 3.4 - Agency law 3.5 - Law of guarantee				
2.5 - Terms of a contract 2.6 - Misrepresentation 2.7 - Undue influence 2.8 - Discharge of a contract 2.9 - Effect of breach of contract 2.10 - Limitation of action 3 Other Relevant Banking Laws 3.1 - Trust law 3.2 - Insolvency law 3.3 - Land law relating to mortgages 3.4 - Agency law 3.5 - Law of guarantee				
2.6 - Misrepresentation 2.7 - Undue influence 2.8 - Discharge of a contract 2.9 - Effect of breach of contract 2.10 - Limitation of action 3 Other Relevant Banking Laws 3.1 - Trust law 3.2 - Insolvency law 3.3 - Land law relating to mortgages 3.4 - Agency law 3.5 - Law of guarantee		• •		
 2.7 - Undue influence 2.8 - Discharge of a contract 2.9 - Effect of breach of contract 2.10 - Limitation of action 3 Other Relevant Banking Laws 3.1 - Trust law 3.2 - Insolvency law 3.3 - Land law relating to mortgages 3.4 - Agency law 3.5 - Law of guarantee 				
2.8 - Discharge of a contract 2.9 - Effect of breach of contract 2.10 - Limitation of action 3 Other Relevant Banking Laws 3.1 - Trust law 3.2 - Insolvency law 3.3 - Land law relating to mortgages 3.4 - Agency law 3.5 - Law of guarantee				
2.9 - Effect of breach of contract 2.10 - Limitation of action 3 Other Relevant Banking Laws 3.1 - Trust law 3.2 - Insolvency law 3.3 - Land law relating to mortgages 3.4 - Agency law 3.5 - Law of guarantee				
2.10 - Limitation of action 3 Other Relevant Banking Laws 3.1 - Trust law 3.2 - Insolvency law 3.3 - Land law relating to mortgages 3.4 - Agency law 3.5 - Law of guarantee				
 3.1 - Trust law 3.2 - Insolvency law 3.3 - Land law relating to mortgages 3.4 - Agency law 3.5 - Law of guarantee 				
 3.1 - Trust law 3.2 - Insolvency law 3.3 - Land law relating to mortgages 3.4 - Agency law 3.5 - Law of guarantee 	2	Other Pelevent Penking Love		
 3.2 - Insolvency law 3.3 - Land law relating to mortgages 3.4 - Agency law 3.5 - Law of guarantee 				
3.3 - Land law relating to mortgages 3.4 - Agency law 3.5 - Law of guarantee				
3.4 - Agency law 3.5 - Law of guarantee		•		
3.5 - Law of guarantee				
Chapter 2: Regulatory Framework in Banking and Financial Markets				
	Chapter 2: Regulatory Framework in Banking and Financial Markets			

Last updated: 21 February 2023





1 Regulatory Framework			
	1.1		
	1.2	- Role of the regulatory bodies	
		HKMA including the Code of Conduct	
		• SFC	
		• MPFA	
		· IIA	
	1.3	- Relationship between regulations and governmental policy	
2		Major Statutory and Regulatory Requirements	
	2.1	- Banking Ordinance	
		 Limitations on granting loans and advances 	
		 Limitations on advances to directors and connected parties 	
		 Limitations on advances to employee 	
		 Limitations on shareholding by Ais 	
		 Limitations on holding interest in land by Ais 	
		 Liquidity requirements 	
	2.2	- Securities and Futures Ordinance	
		 Licensing 	
		 Regulation over the sale of retail investment products 	
		Offences and misconduct	
	2.3	- Insurance Companies Ordinance	
		 Licensing 	
		• Guidelines	
	2.4	- Supervisory regime – (Basel) International standards	
		Basel Committee	
		Basel I & II	
		Basel III	
		• The major reforms	
	2.5	- Banking Compliance	
Ch	apte	r 3: Negotiable Instruments	
1	1.1	Introduction Types of pagetiable instruments	
	1.1	- Types of negotiable instruments	
		Bills of exchange Chagues	
		• Cheques	
		Promissory notes	
		Banker's drafts	

Last updated: 21 February 2023





		. Travallars' chaques
		• Travellers' cheques
		 Bearer bonds
		• Debentures
	1.2	- Rights and liabilities of parties
2		Cheques
	2.1	- General features of Cheques
		Characteristics of a cheque
		 Relationship with other bills of exchange
		 Classification of cheques and indorsement
		 Liabilities of parties
		 Holder of value, holder in due course
		• Crossings
		 Discharge of liabilities
	2.2	- Collection of cheques
		 The Hong Kong Clearing System
		 Collecting banker's duties
		The bank as holder for value
		 Claims by third parties against collecting bankers
		 Defence for collecting banks
	2.3	- Payment of cheques
		 Paying banker's duties
		 Claims by third parties against paying bankers
		 Statutory protection of the paying banker





Essential Reading:

- HKIB Study Guide – Introduction to Banking Law (2018)

Supplementary Readings:

- Chan Bo-ching Simon. (2000). Hong Kong Banking Law and Practice (Vol.1). The Hong Kong Institute of Bankers.
- Mark Hsiao. (2013). Principles of Hong Kong Banking Law. Sweet & Maxwell

Further Readings:

- Claire Wilson. (2016). Banking Law and Practice in Hong Kong. Sweet & Maxwell
- HKIB E-learning Course No. 1 Anti Money Laundering
- HKIB E-learning Course No. 7 Basel III

For more details, please refer to further reading session at end of each chapter

Last updated: 21 February 2023