

## Module Outline

<b>Module Title:</b>	Introduction to Banking Law
<b>QF Level:</b>	Reference is being taken to HKQF Level 4
<b>Programme Credit:</b>	10 Credits for the Advanced Diploma of Certified Banker (9 training hours and 1.5 examination hours) Training Class
<b>Teaching/Training &amp; Learning Activities:</b>	N/A
<b>Pre-requisite:</b>	

### 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

<b>Chapter 1: Basic Legal Principles</b>	
<b>1</b>	<b>Sources of Laws Applicable to the Banking Industry</b>
1.1	- Introduction
1.2	- The Basic Law of the HKSAR
1.3	- Legislation
	<ul style="list-style-type: none"> <li>▪ Banking Ordinance</li> <li>▪ Financial Institutions (Resolutions) Ordinance</li> <li>▪ Securities and Futures Ordinance</li> <li>▪ Anti-money laundering legislation</li> <li>▪ Personal Data Privacy Ordinance</li> <li>▪ Prevention of Bribery Ordinance</li> <li>▪ Companies Ordinance</li> <li>▪ Bills of Exchange Ordinance</li> <li>▪ Inland Revenue Ordinance</li> <li>▪ Anti-discrimination legislation</li> <li>▪ Competition Ordinance</li> </ul>
1.4	- Common law & equity
1.5	- Regulatory guidelines
<b>2</b>	<b>Law of Contract in Banking</b>
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
<b>3</b>	<b>Other Relevant Banking Laws</b>
3.1	- Trust law
3.2	- Insolvency law
3.3	- Land law relating to mortgages
3.4	- Agency law
3.5	- Law of guarantee
<b>Chapter 2: Regulatory Framework in Banking and Financial Markets</b>	

<b>1</b>	<b>Regulatory Framework</b>
1.1	- Purposes and cause of regulation
1.2	- Role of the regulatory bodies <ul style="list-style-type: none"> <li>▪ HKMA including the Code of Conduct</li> <li>▪ SFC</li> <li>▪ MPFA</li> <li>▪ IIA</li> </ul>
1.3	- Relationship between regulations and governmental policy
<b>2</b>	<b>Major Statutory and Regulatory Requirements</b>
2.1	- Banking Ordinance <ul style="list-style-type: none"> <li>▪ Limitations on granting loans and advances</li> <li>▪ Limitations on advances to directors and connected parties</li> <li>▪ Limitations on advances to employee</li> <li>▪ Limitations on shareholding by Ais</li> <li>▪ Limitations on holding interest in land by Ais</li> <li>▪ Liquidity requirements</li> </ul>
2.2	- Securities and Futures Ordinance <ul style="list-style-type: none"> <li>▪ Licensing</li> <li>▪ Regulation over the sale of retail investment products</li> <li>▪ Offences and misconduct</li> </ul>
2.3	- Insurance Companies Ordinance <ul style="list-style-type: none"> <li>▪ Licensing</li> <li>▪ Guidelines</li> </ul>
2.4	- Supervisory regime – (Basel) International standards <ul style="list-style-type: none"> <li>▪ Basel Committee</li> <li>▪ Basel I &amp; II</li> <li>▪ Basel III</li> <li>▪ The major reforms</li> </ul>
2.5	- Banking Compliance
<b>Chapter 3: Negotiable Instruments</b>	
<b>1</b>	<b>Introduction</b>
1.1	- Types of negotiable instruments <ul style="list-style-type: none"> <li>▪ Bills of exchange</li> <li>▪ Cheques</li> <li>▪ Promissory notes</li> <li>▪ Banker’s drafts</li> </ul>

1.2	<ul style="list-style-type: none"> <li>▪ Travellers' cheques</li> <li>▪ Bearer bonds</li> <li>▪ Debentures</li> </ul> <p>- Rights and liabilities of parties</p>
<b>2</b>	<b>Cheques</b>
2.1	<p>- General features of Cheques</p> <ul style="list-style-type: none"> <li>▪ Characteristics of a cheque</li> <li>▪ Relationship with other bills of exchange</li> <li>▪ Classification of cheques and indorsement</li> <li>▪ Liabilities of parties</li> <li>▪ Holder of value, holder in due course</li> <li>▪ Crossings</li> </ul>
2.2	<p>- Collection of cheques</p> <ul style="list-style-type: none"> <li>▪ The Hong Kong Clearing System</li> <li>▪ Collecting banker's duties</li> <li>▪ The bank as holder for value</li> <li>▪ Claims by third parties against collecting bankers</li> <li>▪ Defence for collecting banks</li> </ul>
2.3	<p>- Payment of cheques</p> <ul style="list-style-type: none"> <li>▪ Paying banker's duties</li> <li>▪ Claims by third parties against paying bankers</li> <li>▪ Statutory protection of the paying banker</li> </ul>

**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**