

NATIONAL LAW UNIVERSITY, DELHI

LL.M. Degree Programme, I-Semester (Batch of 2018)

End-Semester Examinations, December- 2018

Paper: Law and Practice of Finance

Time: 3:00 Hours

Total Marks: 50

Instructions:

- a) Please answer **Any Five Questions** (All questions carrying equal marks)
- b) Printed material allowed.

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- Q1. Enumerate the types of securities which can be provided to a financier by a borrower in the following cases, the means available to perfect the same along with any alternate means of raising finance which would provide the financier comfort of repayment or reduce its risk.
- a) A company engaged in the business of diamond cutting and polishing for onwards sale requiring assistance for buying diamond roughs.
 - b) A pharmaceutical company, having developed a molecule with considerable market potential needs finance for field trials of the same.
 - c) A television serial production company, having contract with a TV network for a planned serial, needs working capital for its production.
 - d) A music band which has gone independent, requires finance for its new album.
- Q2. Discuss whether a security interest is created in the following cases:
- a) A retailer deposits money with the mall owner as security for rent.
 - b) The promoter of a company sells a part of his shareholding to a private equity fund with an option to buy back the same at the end of five years but before the expiry of six years at a fixed price. The fund also being granted an option to put the same on the promoter during the same period at the same price.
 - c) A fish vendor factors the receivables due from different restaurants with a bank, with the bank having a right of recourse on the vendor.
 - d) A bullion supplier retains title on the gold given to an ethnic jewellery maker, for manufacturing purpose, till the sale price of gold is paid off.
- Q3. Determine who will have priority in the following cases –
- a) A Bank Ltd. has a fixed charge over the stock in trade and receivables of B Ltd. As per the terms of the charges, B Ltd. has the authority to deal with the assets comprised in the charge under specific permission granted for fixed terms of 6 months but the proceeds of the sale have to be deposited in an account maintained with A Bank Ltd. and required its prior permission for drawals but in reality A had given a blanket permission for drawals supposed to be drawable on permission, a power it had never exercised. B Ltd. Is unable to pay its supplier and therefore creates a constructive pledge over its stock in trade in favour of supplier C and assigns the receivables to it. B Ltd. Defaults in payments to A Bank Ltd., which therefore seeks to enforce the security under SAFAESI, which the supplier contests before the Debt Recovery Tribunal.

- b) A Bank Ltd. has a floating charge on all the raw material, stock in trade and receivable of B Ltd. with a clause providing that in the event B Ltd. seeks to provide security over any of its assets to another creditor, A Bank Ltd. will automatically have another pari passu charge on the same asset or another asset of equal value. B Ltd. creates a mortgage on its godown for its supplier. On non-payment of dues by B. Ltd. for its supplier, the supplier applies before the Court for sale of the godown. A Bank Ltd seeks a proportionate part of the proceeds of sale and moves on application before the court.

Q4. Discuss the options which the bank/financer has in the following cases: -

- a) A bank Ltd. has a fixed charge over the truck fleet of B and also its receivables. The receivables have to be deposited in an account maintained with A Bank Ltd. Instead of depositing the carriage charges due from a major customer in the account, B uses the amount to buy a nursing home for his daughter.
- b) XY Ltd., a finance company, is facing a liquidity crunch and seeks to securitize the loans given to transporters for buying commercial vehicles. But, to securitize it successfully, the credit rating has to be high enough to lure the investors. The rating agency asks it to enhance the credit of the proposed portfolio sought to be securitized. XY Ltd. seeks your advise.

Q5. Describe the means by which the Banking Regulation Act seeks to reduce the risks posed by the management of the bank.

Q6. Write short notes on:

- a) Distinguishing floating charge from a fixed charge
- b) Management of credit risk by banks.