

COURSE SYLLABUS

International Finance Law

This course has been designed to examine the role of international financial law and regulation in the operation of financial markets. It is also designed to contribute to enhanced understanding of the rationale, methods and institutional design of the regulation and supervision of financial markets.

The course focuses on the principles of regulation in international financial markets and the role of international, European, and related areas of national private law and public regulation in governing financial markets. The institutional design for the supervision of financial markets will be addressed, including the interaction between central banks, governmental regulatory agencies or international organizations and standard setting bodies on the one hand, and financial markets and market participants on the other.

Aims & Objectives

When you have completed your study of this course, you will be able to:

- outline and discuss the main reasons for government regulation and supervision of financial markets;
- analyse inherent weaknesses and market failures in the financial system and explain the role of law and regulation in correcting those deficiencies;
- outline and discuss the methods and instruments of banking regulation in a range of issues, including capital regulation, liquidity requirements and leverage ratios;
- critically assess the regulatory components of the global financial system;
- analyse the legal components of current work towards a stronger global financial system following a recent sequence of devastating crises;
- review the development of derivatives markets and infrastructure of financial markets, including clearing, settlement and payment systems.

The teaching takes place in **thirteen** class sessions, and each session lasts one hour and thirty minutes. You are expected to revise the documents loaded on the homepage and the case books before attending lectures.

The course will address many topical issues concerning the operation of banking and financial markets in light of regulatory developments. The freezing and subsequent meltdown of international financial markets in 2007 and 2008 triggered a widespread economic recession which, in turn, was addressed by unprecedented government interventions. A course on financial law and regulation therefore cannot proceed without reference to the profound changes that the financial crisis has caused. This course will analyse the main principles and standards of international financial regulation with particular focus on implementation in the European Union, Switzerland, the United Kingdom and the United States.

Class 1, February 24, 2022, 10:15am–12pm: Overview: International financial architecture and the standard-setting process (KA)

Introductory overview of the architecture of international financial regulation. The class will discuss why there is a need for cooperation in matters of finance at the international level and shed light on the numerous sets of rules, initiatives and institutional structures adopted for that purpose. It will examine different sources of international financial law and the mechanisms that foster compliance by national regulators and market participants. It covers the activities of the International Monetary Fund (IMF) and World Bank as well as the Financial Stability Board (FSB). We will also explore the work of the specialist standard-setting bodies, including the International Association of Insurance Supervisors (IAIS) and. Finally, we will look into the evolving role of the Group of Twenty (G-20) as the core political steering group since the onset of the recent financial crisis.

Class 2, March 3, 2022, 10:15am–12pm: Securities regulation and investor protection (MdE)

Securities regulation and related investor protection, the International Organization of Securities Commissions (IOSCO), IOSCO standards, IPOs, ICOs - US SEC and European regulatory developments, such as the Market in Financial Instruments Directive (MIFID). The class will also focus on Hedge Funds and Private Equity Funds and their regulation (European and American) as case studies for understanding the way regulators implement investor protection in combination with other regulatory objectives.

Class 3, March 10, 2022, 10:15am–12pm: : Bank capital adequacy and liquidity rules and standards, bank risk management and corporate governance, Basel III/IV, Core Principles for Banking Supervision (KA)

Bank capital regulation. What is the purpose of bank capital regulation? What is a risk-based regime? International agreements on capital regulation and Basel Committee on Banking Supervision (BCBS). Basel I-Basel II & Basel III, Basel IV. The implementation of international capital/liquidity regulation is illustrated with discussion of the EU Capital Requirements Directive, Swiss bank requirements, and recent US capital regulation.

Class 4, March 17, 2022, 10:15am–12pm: Bank recovery and resolution: FSB key attributes, G-SIBs, EU Bank resolution and Single Resolution Mechanism (KA)

If all else fails, struggling banks may have to be restructured or wound-up in a resolution proceeding. We will discuss the international standards for bank resolution and the role of the Financial Stability Board. Review the four main bank resolution tools with particular emphasis on bail-in. Examples of EU Bank Recovery and Resolution and Directive and the Banking Union's Single Resolution Mechanism, UK Banking Resolution framework, and US resolution

Class 5, March 24, 2022, 10:15am–12pm International financial regulation and environmental and social sustainability (KA). Climate finance, environmental risks to the financial sector. Physical, transition and legal risks. Role of regulation. European Commission taxonomy and Sustainability Banking Network

Class 6, March 31, 2022, 10:15am–12pm: Role of Central Banks; CBDCs (MdE)

We examine the role of Central Banks, which were key players in recent crisis management efforts. We will discuss their extraordinary monetary policy measures in light of Central Bank's core price stability mandate and unparalleled autonomy. The class will also cover Central Bank's role as lenders of last resort to illiquid banks and the role of central banks in sustainability. The second part of the class then explores how Deposit Guarantee Schemes contribute to financial stability and how they are designed differently across jurisdictions.

Class 7, April 7, 2022, 10:15am–12 pm: European Banking Union and EU banking and financial services legislation and regulation (KA) and Deposit Guarantee Schemes (SA)

We will address how international standards are translated into EU and eventually national financial regulation. Amongst others, we will discuss the role of the European Supervisory Authorities in shaping financial rule-making within the EU. The class will examine various supervisory models in theory and study how they are implemented in different European jurisdictions. We will look into the establishment of the Single Supervisory Mechanism, within European Banking Union, and discuss how it fits in with the pre-existing framework for EU financial supervision. As a point of comparison, the class will discuss certain aspects of US and Swiss financial regulation.

Class 8, April 14, 2022, 10:15am–12pm: Trading in derivatives and clearing (KA)

We will cover financial market infrastructure, Historical development and main features of the international derivatives and swaps markets. It will look at model over-the-counter derivatives contracts and related financial risks, the crisis and central clearing of derivatives. Also, bank payment systems and securities settlement systems and their links to financial stability and operation of the markets. Related issues will be discussed including the dematerialisation of securities and the impact on trading and the legal and regulatory challenges

Class 9, April 28, 2022, 10:15am–12pm: Insurance and Reinsurance and ratings agencies (MdE).

We will cover the role of the International Association of Insurance Supervisors, EU Solvency II, G30 reinsurance standards and sustainability, the role and the regulation of rating agencies, with an emphasis on credit rating agencies, and how the concept of rating is changing under the pressure of specific factors in capital markets.

Class 10, May 5, 2022, 10:15am–12pm: International trade in financial services, WTO GATS, EU Equivalence, NAFTA, home-host control Payment and settlement systems (KA)

The class will discuss the legal and regulatory issues involving cross-border trade in financial services covering the WTO GATS, North American Free Trade Agreement (NAFTA), and bilateral free trade agreements and financial services.

Class 11, May 12, 2022, 10:15am–12 pm: Shadow Banking, Blockchain & Digital Finance (MdE).

The shadow banking system emerged as a network affecting the entire structure of capital markets. During this class, we will understand what shadow banking is, how it works, and what the main risks are. The class will also cover the most recent developments in blockchain, digital and decentralized finance, analyzing the main structures (such as Initial Coin Offerings and their evolution), the new market infrastructures and the risks emerging from this new paradigm.

Class 12, May 19, 2022, 10:15am–12pm: Financial crime, FATF standards, Anti-money laundering and counter terrorist financing, know-your-customer and due diligence (MdE)

Placing emphasis on international standards, the class will discuss how financial crime is tackled in order to ensure financial stability. The class will also discuss how international standard-setting has changed the operation of the banking sector and its business with customers. This involves aspects of risk assessments, due diligence, and know-your-customer procedures. The class will finally look into the causes of the latest money-laundering scandals including regulatory and operational lessons to be drawn.

Class 13, June 2, 2022, 10:15am–12pm: Future challenges, and Roundup (main themes of international finance law and regulation based on previous lectures) (KA/MdE)

Summing up key themes of the course and exam review.

Reading Materials

The *following textbooks* are recommended for topics covered in the class and are available at bookshops: Schulthess and Orell Fuessli as well as in the RWI library:

MANDATORY READINGS:

KERN ALEXANDER, *PRINCIPLES OF BANKING REGULATION*, CAMBRIDGE UNIVERSITY PRESS, CAMBRIDGE 2019

ADDITIONAL READINGS

KERN ALEXANDER/RAHUL DHUMALE/JOHN EATWELL, *Global Governance of Financial Systems, The International Regulation of Systemic Risk*, Oxford University Press, Oxford 2006.

KERN ALEXANDER/RAHUL DHUMALE (eds.), *Research Handbook on International Financial Regulation*, Edward Elgar Publishers, Cheltenham, 2012.

In addition, classes may be complemented by required reading materials that will be sourced from law journals, periodicals or other publications. The exams will be based on material discussed in class and on the power point slides and the required reading materials. Current event announcements will be made via Twitter. @ProfKAlexander @marcodellerba_