

COURSE SYLLABUS

International Finance Law

This course has been specially designed to examine the role of 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 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, independent government agencies or international organizations 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 the world's financial markets as they recover slowly from the worst financial and economic crisis in decades. The freezing and subsequent meltdown of the world's capital markets triggered a widespread economic recession which, in turn, was addressed by government interventions around the world of the most dramatic and unprecedented intensity. A course on financial law and regulation therefore cannot proceed without reference to the profound changes that the financial crisis has caused. Thus, at every opportunity, the established knowledge of the rules and principles of regulation of international financial markets will be compared to regulatory reforms and policies that will be taking place concurrently with our course lectures.

Class 1, February 22, 2018, 10am-12pm: Overview: International financial architecture and the standard-setting process

We will begin with an introductory overview of the architecture of international financial markets 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. 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 1, 2018, 10am-12pm: International financial institutions and standard-setters

In the following class, we will examine the core institutional structures established to promote international financial cooperation. The lecture will cover the governance, activities and impact especially 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 Basel Committee on Banking Supervision (BCBS), the International Association of Insurance Supervisors (IAIS) and the International Organization of Securities Commissions (IOSCO).

Class 3/4, March 8/15, 2018, 10am-12pm: Regulation and supervision in Europe: European Supervisory Authorities, Banking Union, Single Supervisory Mechanism, European Stability Mechanism

Why regulate financial markets? This core question will be the introduction to our third and fourth class. We will then 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 jurisdictions, including the European Union. We will look into the establishment of centralized banking supervision, the Single Supervisory Mechanism, within Banking Union and discuss how it fits in with the pre-existing framework for financial supervision. The class will conclude with a brief introduction to the governance and activities of the European Stability Mechanism.

Class 5, March 22, 2018, 10am-12pm: Role of Central Banks; Deposit Guarantee Schemes

In this class, we will turn to 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 European Central Bank's (ECB) participation in the "Troika". 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 6, March 29, 2018, 10am-12pm: Bank recovery and resolution: FSB key attributes, G-SIBs, Single Resolution Mechanism

If all else fails, struggling banks may have to be restructured or wound-up in a resolution proceeding. We will look into the relevant international standards and the role of the FSB in determining global systemically important banks (G-SIBs), which have to meet specific regulatory requirements. The class will also discuss the recent efforts, at the European level, to establish a Single Resolution Mechanism (SRM) for the Euro area.

Class 7, April 12, 2018, 10am-12pm: Review (main themes of the first part of the course - 45 minutes); Bank capital adequacy and liquidity rules and standards, bank risk management, Basel III

Bank capital regulation. What is the purpose of bank capital regulation? What is a risk-based regime? International agreements on capital regulation, especially Basel I-Basel II & Basel III, the

EU Capital Requirements Directive, Swiss bank requirements, and recent US capital regulation proposals.

Class 8, April 19, 2018, 10am-12pm: Bank corporate governance/group structures, misconduct risk, operational risk, role of the board/UK and Swiss regulation of bank governance

International standards of bank corporate governance, agency problems and banks, regulation and stakeholders. Risk culture and UK-EU governance and liability regimes.

Class 9, April 26, 2018, 10am-12pm: Securities regulation and investor protection

Securities regulation and related investor protection, IOSCO standards, European regulatory developments. Market in Financial Instruments Directive (MIFID). MIFID's concept of best execution in securities trading and financial market transactions. Inducement and conflicts of interest in provision of financial services.

Class 10, May 3, 2018, 10am-12pm: Trading in derivatives and clearing

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.

Class 11, May 17, 2018, 10am-12pm: Credit ratings and regulation and financial crime and sanctions, FATF standards, know-your-customer and due diligence

The class will discuss the use of credit ratings in financial markets, capital markets and in bank capital regulation. How credit rating agencies evolved and the resulting conflict of interests. How they contributed to the financial crisis. EU and US regulation rating agencies and related regulatory and markets risks.

Class 12, May 24, 2018, 10am-12pm: Payment and settlement systems

The concluding class will discuss the legal and regulatory issues involving the infrastructure of financial markets. 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 13, May 31, 2018, 10am-12pm: Roundup (main themes of international finance law and regulation based on previous lectures)

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 the students shop as well as in the RWI library:

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 leading international law journals, periodicals or other leading publications. The exams will be based on the power point slides used in classes and the required reading materials.